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ACTS OF THE FIRST GENERAL ASSEMBLY

Passed January, February and May, 1802, by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly Convened.

1. An Act to provide for the more convenient organization of the Courts of this Territory. (Originated in the House of Representatives.) Approved January 26, 1802.
2. An Act for establishing and Organising a Militia in this Territory. (Originated in the Legislative Council.)
3. An Act to divide Jefferson County and for other purposes therein mentioned.
4. An Act appointing the place of holding the Supreme Courts for Jefferson District, and for other purposes.
5. An Act appointing Commissioners for the purpose of establishing a permanent seat of Justice in the County of Washington, and for Other purposes.
6. An Act ascertaining the Number of Attornies General, to be appointed in the Mississippi Territory, for fixing their Salaries, and directing their duty in Office.
7. An Act to provide for the Printing and Publishing the Journals and Acts of the General Assembly.

Nos. 2, 3, 4, 5, 6 and 7 were approved January 27, 1802.

8. An Act in addition to the Act Instituted An Act to provide for the more convenient Organization of the Courts of this Territory. (Originated in the Council)

9. An Act concerning Counsel and Attornies at Law. (Originated in the House of Representatives.)

10. An Act to establish the fees of the several officers herein named.(Originated in the House of Representatives.)

11. An Act for giving Equity Jurisdiction to the Superior Courts.(Originated in the House of Representatives.)

12. An Act to empower the County Courts of the Several Counties in this Territory, to order the laying Out public Roads, and establish and Settle Ferries, and to appoint where Bridges shall be built.(Originated in the House of Representatives.)

13. An Act for the punishment of certain crimes therein mentioned. (Originated in the House of Representatives)

14. An Act to Ascertain what property in this Territory shall be deemed Taxable property, and the mode of Collecting, accounting for, and paying public Taxes. (Originated in the House of Representatives)

14a. Copy of the above Tax Bill.

14b. Copy of the above Tax Bill.

Nos. 8,9,10,11,12,13 and 14 were approved January 30, 1802.

15. Portion of An Act to divide Adams County. (Originated in the House of Representatives) Approved January 30,1802.

16. An Act to annul Certain Laws declared and published by the late Governor and Judges of this Territory. (Originated in the House of Representatives)

17. An Act for allowing Compensation to the members of the Legislative Council and House of Representatives of this Territory, and to certain Officers of both Houses, and for other purposes. (Originated in the House of Representatives.)

18. An Act to divorce Elizabeth Eulatio Bryan from Daniel Bryan, her Husband. (Originated in the House of Representatives.)

19. An Act to divorce Joseph Earhart from Elizabeth Earhart, his wife.(Originated in the House of Representatives)

20. An Act directing that the next Session of theGeneral Assembly shall be holden at the Town of Washington.(Originated in the House of Representatives)

Nos. 16,17,18,19 and 20 were approved February 1,1802.

21. An Act appointing the time when, the places where, and the manner of, electing Members of the House of Representatives of this Territory. (Originated in the House of Representatives) Approved February 2,1802.

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These laws passed at the January,February,1802 session of the FIRST GENERAL ASSEMBLY are signed by:
WILLIAM C.C.CLAIBORNE, Governor of the Mississippi Territory;
H.Hunter, Speaker of the House of Representatives;
John Ellis, President of the Legislative Council.
Felix Hughes, Secretary to the Legislative Council.
J.E.Trask, Clerk of the House of Representatives.

#1

An Act to provide for the more convenient Organization of the Courts of this Territory. —

Sec. 1st Be it Enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly Convened And it is hereby enacted by the Authority of the same, That from and after the passing of this Act, this Territory shall be divided into three Districts, to wit, all that tract of Country, now included within the County of Washington shall compose one District, and shall be called the District of Washington, all that tract of Country, now included within the County of Adams, shall compose another District and shall be called the District of Adams, and all that tract of Country, now included in the County of Jefferson, shall compose a third District, and shall be called the District of Jefferson, in each of which Districts, a Court for the trial of causes, civil and criminal, shall be holden twice Annually, at the times and places herein after mentioned, and shall be distinguished and known by the name of the Superior Court of Law in the District, when the same shall be held, and the said Courts shall consist of three Judges, who shall have been appointed, commissioned and qualified, as directed by the Ordinance of Congress of the 13th of July 1787, who shall have Cognizance and legal Jurisdiction of all pleas, real, personal and mixed; and also of all suits and demands, relative to legacies, filial portions and estates of intestates; all pleas of the Government and Criminal matters, of what nature degree or denomination soever, whether brought before them by original

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or mesne process, or by Certiorari, writ of error, appeal from any inferior Court, or by any other ways or means whatsoever, and they are hereby declared, to have full Power, and authority to give Judgment, and to award execution, and all other necessary Process thereupon, in all cases not otherwise directed, by this act, and which may not be inconsistent with, or repugnant to the present form of Government. and in case of the absence of one of the said Judges, It shall be lawful for two of the same Judges, to hold any, of the said Courts, and to take Cognizance, and give Judgment, and award execution, in the same manner, as all the said Judges might have done, had they been present. ——

Sec. 2d And be it further enacted, That there shall be a Clerk to each of the said Courts, of skill and probity, who shall take the following Oath, and give Bond and security, payable to the Governor and his successors in Office, of Ten Thousand Dollars, for the safe keeping of the Records, and the faithful discharge of the duties of his office, which said Bond shall be lodged in the Secretary's Office, and may be put in suit by the party, or parties injured, in his, or their own name, and shall not become void, upon the first recovery, but may from time to time be put in suit, by action of debt until the whole penalty shall be recovered ——

I, — A.B. do swear that by myself or any other person, I neither have given, nor will give, to any person or persons whatsoever, any gratuity, gift, fee or reward in consideration of my appointment, to the Office of Clerk of the Superior Court — Nor have I sold, or offered to sell, nor will I sell or offer to sell, my Interest in the said Office; I also solemnly swear, that I do not directly, nor indirectly hold any other

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luncative Office in this Territory. And I do further swear, that I will execute the Office of Clerk of the said Superior Court for the District of without prejudice, favor, affection, or partiality, to the best of my skill and ability, so help me God. —

Sec. 3d. And be it further enacted, That in case of the death, resignation or removal from Office, of either of the Clerks of the said Court, that his successor in Office, shall take the same Oath also. And if any of the said Clerks shall have violated his Oath, or willingly, wittingly, or corruptly, have done any thing, contrary to the true intent and meaning of the said Oath, such Clerk shall be deemed upon conviction, guilty of misbehaviour in Office, and shall ever after be incapable of holding any Office Civil or Military. ——

Sec. 4th. And be, it further enacted, That the said Superior Courts of Law, shall be holden in and for the District of Washington, on the first Mondays of May, and September, in and for the District of Adams on the fourth Mondays of June, and October, and in and for the District of Jefferson, on the fourth Mondays in July, and November: and may be held any number of days not exceeding Eighteen days, and in case of bad weather or other cause it shall be lawful, and it is by this Act required that any one of the aforesaid Judges shall adjourn from day to day, for three days, and if two of the said Judges shall not then attend to hold the Court, that the said Court, and all suits, actions and proceedings therein, shall lay over in the same order they then are in, and shall stand adjourned to the next Court in course. ——

Sec. 5th And be it further enacted, That the said Superior Courts shall hold their sessions (untill otherwise directed by law) at the following places, to wit, In Washington District, at the place where the County Courts for Washington County shall be held, In Adams District at the place, where the County Court for Adams County, shall be held; and in Jefferson District at the place, where the County Courts for Jefferson County shall be held; and the Jails for the Counties of Washington, Adams & Jefferson, are hereby declared to be also, the Jails for the Districts to which the said Counties respectively belong.

Sec. 6th And be it further enacted, That all real actions, actions of Ejectment, trespasses, Quare clausum fregit, suits on penal statutes, and pleas of the Government, shall be commenced, in the Superior Court of the District, wherein the cause of action shall arise or the offence be committed, and not in any other District; and all actions of Debt, other than on penal statutes, all actions of Detinue and Replevin, actions of account render, Assault and battery, and for the unlawful taking of goods; all actions upon the Case, and suits for legacies, and for distributive shares of intestate Estates, shall be brought in the Superior Court of the District where both parties reside, and where the parties live in different Districts, or where the Plaintiff shall reside beyond seas, or in a different State or Government, It shall be brought to the Court of the District, where the Defendant resides; and when any action, or suit shall be brought otherwise, than is herein directed, such action or suit may be abated on the plea of the defendant.

Sec. 7th And be it further enacted, That no suit shall be originally commenced in any of the said Courts, for any debt or demand, of less nature than Two Hundred Dollars.

Sec. 8th And be it further enacted, That none of the said Courts, nor any of the proceedings therein depending, shall be discontinued by reason of the death of any of the said Judges, or by their not attending at any term, but in such cases, all pleas, causes, matters and things therein depending, shall stand Continued, and remain in the same condition in which they shall then be to the next succeeding term.

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Sec: 9th And be it further enacted, That the Clerk or Attorney, Issuing process shall mark thereon, the day on which the same shall be issued, and the Sheriff or other Officer receiving the same in order to execute shall in like manner mark on each process, the day on which he shall have received it, and every Clerk, Attorney, Sheriff or other Officer, neglecting so to do, shall forfeit and pay, the sum of Two Hundred Dollars, to be recovered by action of debt, in any Court of Record, having cognizance thereof, with costs, by any person who shall sue for the same.

Sec: 10th And be it further enacted, That all writs and other process (except Subpoenas for witnesses returnable immediately) shall be returned the first day of the (day of the) term, to which the same shall be returnable, and shall be executed, at least ten days before the beginning of such term, and if any original or mesne process, shall be taken out within ten days before the beginning of any term, such process shall be made returnable, to the term next succeeding that which shall commence, within ten days after taking out such process, and not otherwise; and all process made returnable, at any other term, or executed at any other time, or in any other manner, than is by this Act directed, shall be adjudged void upon the plea of the defendant; provided nevertheless, that nothing herein contained, shall be construed, to invalidate, or vacate any process, warrant or precept, to be Issued by any of the Judges of said Courts, or any Justices of the peace, or Clerk of any Court, on any criminal prosecution, on behalf of the Government, but that the same may be issued at any time, and made returnable to any day of the term.

Sec: 11th And be it further enacted, That when any writ shall issue from any of the said Courts, whereby any Sheriff or other Officer shall be commanded to take the body of any person, or persons, to answer to any action in any of the said Courts, such Sheriff shall take Bond with two sufficient securities, in double the sum for which such person or

or persons, shall be held in arrest (Executors, Administrators, and persons sued on such penal statutes, as do not expressly require bail excepted) and shall return such Bond with the writ, and in case the Sheriff shall fail, or neglect to take such bail, or the bail returned be held insufficient, on exception taken and entered, the same term to which such process shall be returnable; the Sheriff having due notice thereof, he shall be deemed and stand as Special bail, and the Plaintiff may proceed to Judgement according to the rules hereinafter prescribed.

Sec: 12th And be it further enacted, That all bail bonds, returned to any of said Courts, shall be assigned by the Sheriff returning the same, by endorsement thereon, in the following form, to wit,

I, A. B. Sheriff of do hereby assign the within obligation and condition to C. D. the plaintiff therein named, his Executors, and administrators to be sued for according to the Statute in such case made and provided, in witness whereof I have hereunto set my hand and seal the day of — in the year of our Lord

And every Sheriff failing to make such assignment, shall be deemed, held, and taken as Special bail, in the same manner as if no bail Bond had been taken.

Sec: 13th And be it further enacted, That when any Sheriff shall return, that he hath taken the body of any defendant, and committed him to the prison of his County (which is hereby declared to be the proper prison for such commitment) the plaintiff may enter the defendants appearance, and he shall be at liberty to plead as if such appearance had been entered by himself, and the plaintiff may proceed to Judgment as in other cases in this act directed, Nevertheless, the defendant shall not be discharged out of custody, but by putting in bail or by rule of Court.

Sec: 14. And be it further enacted, That all bail taken according to

the Court to which such scire facias is returnable, shall on motion of the plaintiff, or bail, order and direct, that such principal be returned, when he or she shall be a prisoner, untill the plaintiff's Judgment and Costs shall be paid, or he, or she, otherways be discharged by due course of Law; a copy of which order being served on the keeper of such prison, before such prisoners releasement, shall be a sufficient authority for him to return such prisoner, untill such order be complied with, and shall be deemed a surrender of the principal, and a discharge of the Bail.—

Sec. 17th. And for the better ascertaining in what process shall issue, when the Sheriff shall return, that the defendant is not to be found within his County, Be it enacted, That, when the Sheriff shall make such return in any Civil action, the Plaintiff may, at his election sue out an attachment against the personal estate of such defendant, or an alias or pluries capias, returnable in the same manner as original process, and if the Sheriff shall return any goods by him attached, and the defendant shall fail to appear and plead within the time herein directed, the Plaintiff shall be entitled if in an action of debt, to final Judgment, and if in an action on the case, to an Interlocutory Judgment, and may execute a writ of enquiry the next succeeding term, and the goods so attached, if not replevied or sold, according to the rules herein after prescribed for goods taken in original attachments, shall remain in the custody of the Sheriff untill final Judgment; and then be disposed of in the same manner as goods taken by execution on a writ of Fieri Facias, and if the Judgment shall not be satisfied by the goods attached the Plaintiff may have execution for the residue.

Sec. 18th. And be it further enacted, That all writs issuing from any of the Courts of this Territory, shall run in the name of the Mississippi Territory, and bear Test, and be signed by the respective Clerks.

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Sec. 19th. And be it further enacted, That, all executions, and other process in Civil causes, Issuing from any of the Courts of this Territory, shall be returnable by the Sheriff or other Officer to the first day of the term, next succeeding that, at which they bear Test, under the penalty of One Hundred Dollars, to be recovered by any person who may sue for the same.

Sec. 20th And be it further enacted, That if any Sheriff or other Officer, hath made, or shall make any, return, upon any writ of Fieri Facias or Venditioni Exponas, that he hath levied the debt, damages and costs or fees, as in such writ required, or any part thereof, and hath not, or shall not pay the same into the proper office, or to the party to whom the same is payable, or his Attorney at the return of such writ, or hath or shall return upon any writ of Capias ad satisfaciendum, or attachment for not performing a decree in Chancery for the payment of any sum of money, or other matter, that he hath taken the body, or bodies of any defendant, or defendants, and hath the same ready to satisfy, the money or other matter, in such writ mentioned, and shall actually have received the money, or other matter from the defendant or defendants, or any part thereof, or suffered him, her, or them, to escape with the consent of such Sheriff, or officer, and hath not, or shall not, pay the same into the proper Office, or to the party to whom the same is payable, or his Attorney, that then and in either of the said cases, it shall be lawful for the Creditor, at whose suit a fieri facias venditioni exponas, Capias ad satisfaciendum, or attachment hath or shall issue, upon motion made in the Court, from whence such writ issued, to demand Judgment against such Sheriff, or other officer for the money, or other matter

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mentioned in such roll, and such Court is hereby authorised, and required to give Judgment accordingly for the same, with cost, and to award execution against the goods and Chattels, Lands and Tenements, of such Sheriff, provided such Sheriff have four days previous notice of such motion; and when it shall so happen that the time of any persons Sheriffalty shall have expired, or he shall be removed from his office, before such motion made by the Creditor, or Creditors, the same remedy, proceedings and relief, shall and may be had against him, as if such person was actually in office.

Sec. 21st And be it further enacted, That, in case ~~any~~ any plaintiff, shall obtain Judgment final at the first term to which the process shall be returnable, or an action of debt, it shall be lawful for him to execute his enquiry, as to the value of any foreign currency, or money for which the suit may be brought, at the same term in which such Judgment, shall be entered or obtained.

Sec. 22. And be it further enacted, That, upon any complaint being made upon oath, to any of the Judges of said Courts, or to any Justice of the County Courts, by any person or persons, his, her, or their attorney, agent or Factor, that any person had removed, or is removing himself herself out of the County privately, or so absconds or conceals himself herself, that the ordinary process of law cannot be served on such debtor, and if such Plaintiff, his, her, or their attorney, Agent, or Factor shall swear to the amount of his, her, or their debt or demand, to the best of his, her, or their knowledge, and belief; It shall be lawful for such Judge, or Justice, and he is hereby empowered and required to grant, an attachment against the estate of such

11th

such creditor, wherever the same may be found; or in the hands of any person or persons, indebted to, or having any of the effects of the defendant, or so much thereof, as shall be of value sufficient to satisfy the debt, or demand, and costs of such complaint, which attachment shall be returned to the Court when the suit is cog=nizable, and shall be deemed the

A.

the leading process in such action and the same proceedings shall be had a
thereon as on Judicial attachments Provided always that every suc
Judge or Justice before granting such attachment shall take bond and
security for the party for whom the same shall be Issued his her or
their Attorney agent or Factor payable to the Defendant in doub
the sum for which the Complaint shall be made Conditioned for sa
tisfying all costs which shall be awarded to such defendant in
case the Plaintiff shall be cast in the suit and also all Damage
which shall be recovered against the Plaintiff in any such suit
or suits which may be brought against him for wrongfully suing
out such attachment which bond together with the affidavit
of the party complaining subscribed with his proper name shall be
returned by the Justice taking the same to the Court to which the
tachment is returnable and every attachment Issued without
bond and affidavit taken and returned as aforesaid shall be
abated on the Plea of the Defendant

Sec: 23 And for the ease and convenience of creditors and oth
who may be injured as aforesaid Be it Enacted That it shall
and may be lawful for any Justice of the County Courts upon com
plaint made to him by any person or persons as aforesaid to Issue at
tachments under the rules and regulations before mentioned and make
the same returnable to any of the said Courts where the same is
cognizable any Law Usage or Custom to the contrary notwithstanding

Sec. 24th And be it further enacted That when any person who shall
be an Inhabitant of any other Government so that he cannot pe

sonally be served with process shall be indebted to any person a resi
dent of this Territory and hath any Estate within the same any of the
said Judges or Justices may grant an attachment against the
Estate of such foreign person under the rules restrictions and regulation
before mentioned and the same proceedings may be had thereon and in case
of the Death of any debtor residing out of the Limits of this Territory
leaving lands or other property therein the creditor resident within the
Territory shall in like manner be entitled to recover by attachment
against the Executor and Administrator and Execution shall issue
accordingly against the property so left within the Government
Sec. 24th And be it further Enacted That when any goods or other
Estate shall be attached by virtue of any attachment whether Judi
cial or Original it shall and may be lawful for the Defendant
or Defendants his her or their agent attorney or Factor to replevy
the same by giving bond with sufficient security to the Sheriff or
other Officer serving such attachment which said bond the Sheriff
or other officer is hereby empowered and required to take to appear at
the Court to which such attachment is returnable and to abide by perform and
satisfy the Order and Judgment of such Court and when the Estate
attached shall by three Justices of the County Court to be summoned
by the Sheriff for that purpose be certified on Oath to be perishable
and if the person or persons to whom it belongs his her or their attor
ney agent or factor shall not within twenty days after serving
such attachment replevy the same then such Estate shall be

B

Sold at publick vendue by the Sheriff or other officer he having first advertised such sale at the Court House and other publick places in his County at least ten days before the sale and the money arising by such sale shall be liable to the Judgment obtained upon such attachment and deposited in the Hands of the Clerk of the Court to which the process shall be returnable there to wait the event of such Judgment and when the Sheriff or other officer shall serve an attachment in the Hands of any person or persons supposed to be indebted to, or supposed to have any of the effects of the party absconding or residing out of this Government he shall at the same time summons such person or persons as a Garnishee or Garnishees in writing to appear at the Court to which the attachment shall be returnable within the first four days of the first Term thereof there to answer upon oath what he or she is indebted to the Defendant and what effects of the Defendant he or she hath in his or her hands and had at the time of serving such attachments and what effects or debts of the Defendant there are in the Hands of any other and what person to his or her knowledge or belief And where any attachment shall be served in the Hands of any Garnishee in manner aforesaid It shall be lawful upon his or her appearance and examination to enter up Judgment and award Execution against any such Garnishee for all sums of Money due to the Defendant from him or her and for all Effects and Estate of any kind belonging to the Defendant in his or her possession or custody for the use of the Plaintiff or so much thereof as shall be sufficient to satisfy the Debt and Costs and are

charges incident to levying the same and all goods and effects whatsoever in the hands of any Garnishee or Garnishees belonging to any defendant may be liable to satisfy the Plaintiff's Judgment and shall be delivered to the Sheriff or other Officer serving the attachment and where any Garnishee shall be returned by the Sheriff or other officer summoned in manner aforesaid and shall fail to appear and discover on oath as by this act is directed it shall be lawfull for the Court after solemnly calling the Garnishee and such Court is hereby authorised and required to enter a Conditional Judgment against such Garnishee and upon such Judgment so entered a Scire Facias shall issue against such Garnishee returnable the next Term to shew cause if any he hath why final Judgment should not be entered against him and upon such Scire Facias being duly executed and returned if such Garnishee shall fail to appear at the next Term and discover on oath in manner aforesaid the court shall confirm such Judgment and award execution for the plaintiff the Judgment and costs of suit of which the Garnishee is to have notice by the Sheriff or other officer serving the Scire Facias

Sec. 27. Be it further enacted that the Executors or Administrators of any deceased person shall be liable to be sued in the Court of Chancery by any person who shall have a demand against the estate of the deceased person or persons dying in the State of the Defendant in the same manner as other creditors in which the state of Defendants shall be taken as their principles

Sec. 28. Be it further enacted that the Sheriff, Gover

ments or Dominions possessed of Lands Tenements and Hereditaments in this Territory may have Contracted or may contract Debts with the Inhabitants of this Territory without having personal Estate in the same to satisfy such Debts and Damages Be it Therefore enacted. That all process which heretofore Issued against Goods and Chattels shall hereafter Issue against Lands and Tenements in the same manner as against goods and Chattels in the case of foreigners and non residents And the Sheriff upon such attachment Execution or other process shall proceed to levy the same upon the goods and chattels of the Defendant in the first instance if any there be but if to the best of his knowledge there be no such goods and chattels or not sufficient to answer the Plaintiffs demand he shall execute the same upon the lands and Tenements of such non resident to the amount of the whole Debt or of so much as may remain more than the value of the goods and chattels so found and such lands and Tenements shall be liable under the restrictions aforesaid to be sold to satisfy the Judgment of the Plaintiff and he shall sell the same at the most publick place in his County after his having given at least forty days notice by advertisement in the Publick Gazettes before the day of sale Provided always that it shall be lawful for any person against whose Estate any attachment hath Issued as aforesaid his or her attorney agent or Factor at any time before final Judgment entered or writ of enquiry executed upon giving special Bail to

replevy the Estate so attached and plead to Issue so that the Plaintiff is not thereby delayed of his trial And Provided also that no Judicial process shall be Issued against the Estate of any person residing out of this limits of this Territory unless such process is grounded on an Original attachment or unless the leading process in the suit has been executed on the person of the Defendant when within the Territory and to prevent errors in Issuing attachments and taking bonds thereupon Be it enacted that the attachment shall be in the following Form (viz.)

Mississippi Territory

To the Sheriff of County greeting Whereas A. B. (or) A. B. Attorney agent or Factor as the case may be of C. D.) hath Complained on oath to— Esq. Judge of the Superior Court of law or Justice of the County Court of— that E. F. is Justly indebted to him (or to the said A. B.) To the amount of— an oath having been— also made that said E. F. hath removed or is about to remove himself out of your County or so absconds or conceals himself that the Ordinary process of law cannot be served upon him (or is an Inhabitant of another Government if the case is so) and the said — having given bond and security according to the direction of of this act in such case we therefore command you that you attach the Estate of the said E. F. if to be found on your County or so much thereof replevizable on security as shall be of value sufficient to satisfy the said Debt and Costs according to the Complaint and such Estate so attached in your hands to secure or so to provide that the same may be liable to further proceedings

D

thereupon to be had at the Court to be held for — at or upon the — day of — next so as to compell the said E.F. to appear and answer the above Complaint of the said — when and where you shall make known to the said Court how you have Executed the writ Witness — Esquire Judge or Justice of the said — Court at — the — day of — year of the American Independence — Which attachment shall be signed and sealed by the Judge or Justice granting the same and the bond to be given on obtaining such attachment shall be in the following Form /viz/

Know all men by these presents that we — and — all of the County of — /or as the case may be/ are held and firmly bound unto — in the sum of — to be paid to the said — his executors attorney, Executors Administrators or assigns for which payment well and truly to be made we bind ourselves and each of us our and each of our heirs Executors or administrators Jointly and severally firmly by these presents sealed with our seals and dated the — day of — in the year of our Lord —

The Condition of the above Obligation is such that whereas the above bounden — hath the day of the date hereof prayed an attachment at the suit of — against the Estate of the above named — for the sum of — and hath obtained the same returnable to the — Court of — to be held at — on the — day of — next now if the said — shall prosecute his said suit with Effect or in case he fail therein he shall well and truly pay and satisfy to the said — all such costs and Damages as shall be awarded and recovered against the said

his Heirs Executors or Administrators in any suit or suits which may be hereafter brought for wrongfully suing out of such attachment then the above obligation to be void otherwise to remain in full force and effect Provided Nevertheless that no attachment shall be abated for want of form if the essential matters expressed in the foregoing precedent be set forth in such attachment

Sec: 28th And be it further enacted That in all suits commenced or prosecuted by attachment against the Estate of persons residing out of this Territory the Court to which the same shall be brought shall stay all proceedings in such suit for so long time as they may think necessary not less than six months nor exceeding one year from the time of the return of such process and when it can be conveniently done notice shall Issue from the Court to the Defendant by post or other conveyance to be inserted in the publick papers of one or more of the States and if the Defendant appear put in bail and plead within the time limited for his or her appearance in such case his Estate so attached shall be liberated and the Garnishee or Garnishees if any discharged And it shall be lawful for the Jury in the case of such non residents who shall be notified as aforesaid to give in Damages legal Interest upon the Plaintiffs recovery during the time of such extraordinary Continuances

Sec: 29th And be it further enacted That the following

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rules and methods shall be observed in the said Courts (102)
That every Plaintiff or his attorney when employed in any
Suit in any of the Courts of this Territory shall file his Decla-
ration in the Clerk's Office at the period of Issuing the writ c
and it shall be the duty of the Clerk to furnish the Sheriff with a
Copy of the Declaration at the time of giving him the writ which
Copy the Sheriff after serving the writ shall deliver to the Defen-
dant And on failure thereof such writ shall be void and of
no effect The Defendant shall appear and plead or Demur
within the first three days of the term of the Court to which the
writ is returnable Otherwise the Plaintiff may have Judgment
by Default which in actions of Debt shall be final unless where
Damages are suggested on the role and in that case and in all
others not herein specially provided for where the recovery shall
be in Damages a writ of enquiry shall be executed at the next
succeeding Term Provided that when the nature of the action
requires special pleading the time for pleading may be enlarged
Where the Defendant pleads specially the Plaintiff shall reply
or demur within three days after the time allowed for filing
such plea or a non pros. may be entered by the Defendant
and if the Plaintiff replies and in his replication tenders an
Issue the Defendant shall Join Issue or demur in three days
otherwise the Plaintiff may have Judgment and where the Defendant
rejoins to the plaintiffs replication he shall file his rejoinder
within three days or Judgment shall go against him unless
the time for pleading shall be enlarged as aforesaid and the same
time shall be given and rules observed thro' the whole course of

the pleadings Where a special verdict shall be found a case a greed a demurrer filed or a bill of Exceptions to the Evidence tendered time shall be allowed upon motion of either party to the next Term to argue the same

For the better preservation of the records of Courts when any cause is finally determined the Clerk of each Court shall enter all the proceedings in a book well bound and an entire ~~and perfect~~ Record make thereof

All Jury causes shall be first tried All motions in arrest of Judgment shall be argued within the three last days of the Term in which the Issue shall be tried the defendants attorney first serving the Plaintiffs attorney with a Copy of the reasons in arrest of Judgment the day immediately following that on which such motion shall be made

Arguments on writs of error special verdicts cases agreed demurrers petitions for Legacies and distributions of Intestates Estates shall be heard ~~upon~~ the four last days of the Term

No plea in abatement shall be received in any of the said Courts unless the party offering the same shall by affidavit or otherwise prove the truth of such plea

Where a Plea in abatement shall be pleaded and upon agreement the same shall be Judged insufficient the Plaintiff shall recover against the Defendant full costs to the time of overruling such plea including the costs of Court and the Plaintiff in replevin or Defendant in any other action may plead as many several Matters as may be necessary for his Defence so that

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he be not admitted to plead and demur to the whole

Sec: 28th And be it further enacted That for taking the testimony of Witnesses in all causes which may be depending in the superior or County Courts the following rules shall be observed and put in practice to wit, In all suits where Witnesses are to appear at any of the said Courts the clerk at the request of the party shall Issue a subpoena directed ~~directed~~ to the sheriff (or other officer for such purpose) of the County where the Witness or Witnesses ~~were~~ said to reside mentioning the time and place for his her or their appearance the name of the parties to the suit wherein the testimony is to be given and the party at whose instance such Witness or Witnesses is or are summoned

Every subpoena made returnable immediately shall be Issued only in term time and shall be personally served on the Witness or Witnesses therein named

A Copy of every subpoena Issued by the clerk in the vacation in case the Witness or Witnesses therein named is or are not to be found may be left at their usual places of residence with some white person should any reside there and such copy certified by the sheriff or other officer left as aforesaid shall be deemed a legal summons and the person or persons therein named shall be bound to appear in the same manner as if personally summoned

Sec: 29th And be it further enacted That every Witness being summoned to appear in any of the said Courts in

Manner as herein before directed shall appear accordingly and continue to attend from Term to Term untill discharged by the Court or the party at whose instance such Witness shall be summoned and in Default thereof shall forfeit and pay to the party at whose instance the subpoena Issued the sum of one hundred Dollars and shall be further liable to the action of such party for the full Damages that may be sustained for want of such Witnesses testimony who shall recover the same by Scire Facias with costs Provided always that if it shall so happen that the suit depending shall in the vacation be accommodated and settled between the parties and the party at whose instance such Witness was summoned should neglect or omit to discharge him or her from further attendance and he or she for want of such Discharge should attend at the next term then and in that case the Witness upon oath made of the facts shall be entitled to a ticket from the clerk in the same manner as other Witnesses and shall recover from the party at whose instance he was summoned the same allowance which by this act is given to Witnesses for their attendance at the said Court with costs Provided also that if any Witness shall hereafter swear falsely in order to obtain a ticket he shall upon conviction be adjudged guilty of willful and corrupt perjury and shall suffer as in such cases are by law provided And provided further ~~further~~ that if sufficient cause be shewn by the person so summoned and failing to appear

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of his or her incapacity to attend at the time and place mentioned in the subpoena then no forfeiture or penalty shall be incurred by such failure but if on notice given by the Court sufficient cause be not shewn at the next succeeding Term after such failure it shall and may be lawful for such Court on motion to grant Judgment and award Execution for the forfeiture before mentioned against the person so summoned and failing to appear as aforesaid

Sec. 20th And be it further enacted that when any person who may be a Witness in any cause in any of the said Courts shall reside out of this Territory or shall by reason of age or bodily infirmity or other cause be incapable of attending to give his or her testimony in Court Oath thereof being made or the truth of the matter otherwise appearing the Judges or Justices of the Court wherein such suit is depending shall and may by commission empower such and so many persons as may be thought necessary to take and receive the deposition of such Witness or Witnesses which being duly taken and returned as here in after is directed shall be received as legal Testimony (only with this exception that where such testimony shall appear Doubtful that it shall be lawful for the Court and Jury on trial of any cause to be at liberty to Judge of the reality validity and truth of such testimony from probability and attending circumstances) Provided always that the party praying such commission shall give such notice to the adverse party of the time and place when and where such Commission is to be executed as the Court shall think proper and the adverse party shall have power to cross examine any Witness whose deposition shall be

so taken and all depositions otherwise taken than as herein is directed unless by consents of parties shall be void to all intents and purposes

Sec. 21st — And be it further enacted that if any person who may be a Witness in any cause depending in any of the said Courts shall be under a necessity of leaving this Government before such cause is to be tried or even before such cause shall be at Issue upon oath thereof made before any of the Judges of Justices of the said Courts such Judge or Justice is hereby empowered to order the clerk of the court where such cause is depending to Issue a Commission to one or more persons to take the depositions of such Witness notice first being given to the adverse party of the time and place when and where such deposition is to be taken at least ten days previous to the time of executing such Commission which deposition when returned taken in manner aforesaid shall be received as legal Evidence

Sec. 22 And be it further enacted that if any person who shall be summoned as a Witness in any of the said Courts or before any person appointed to take depositions as aforesaid shall refuse to give testimony on oath such person so refusing shall by the Court or by the Commissioners before whom he or she shall be summoned be committed to the common prison there to remain without bail or mainprize untill he or she shall be willing to give testimony in such manner as the Law doth or may direct Provided the people called Quakers

shall have the liberty of giving their testimony by way of solemn affirmation in all cases whatsoever And provided also that all Negroes Mulattoes Indians and all persons of Mixed blood descended from Negro or Indian ancestors to the third generation inclusive (tho' one ancestor of each generation may have been a white person) whether bond or free shall be taken and deemed to be incapable in law to be witnesses in any case whatsoever except for and against each other

Sec. 33 – And be it further enacted that every Witness summoned to appear in any of the said Courts on a criminal prosecution on plea of the Government shall appear accordingly and continue to attend from day to day untill discharged by the court the attorney for the Territory or the party at whose instance he shall be summoned and in default thereof shall forfeit and pay the sum of two hundred Dollars for the use of the Territory unless upon notice Issued and made known sufficient cause be shown for such failure at the next succeeding term

Sec. 34th And be it further enacted that during the attendance of any person summoned as a Witness to any court whatsoever and during the time that such person is going to and returning from the place of such attendance allowing one day for every twenty ~~five~~ miles such witness hath to travel to and from his place of residence no sheriff or other officer shall serve or execute on any person so attending going to or returning from such court ~~bond~~ any writ or process warrant order Judg

ment or decree in any cause (summons for witness excepted) or even to compel his attendance as a Talesman to serve as a Juror and if any such process shall be executed the same shall be and is hereby declared null and void

Sec 35th — And be it further enacted That each person who shall attend any of the said superior or County Courts as a witness shall be allowed for each and every days attendance and for every twenty miles he or she shall travel going to and returning from the said Court the sum of one Dollar or in proportion for a less distance

Sec 36th And be it further enacted That the Clerk of the said Courts are hereby empowered and directed to take probate of all evidence tickets and certify the same

Sec. 37th And be it further enacted that the said Courts shall have power and authority to grants writs of error for correcting the Errors of any of the County Courts on the legal praycr of either of the parties who shall conceive themselves injured and the party praying such writ before the same shall issue shall assign error and give Bond and security to the satisfaction of the court to abide by perform and fulfil the Judgment which shall be given thereon by such court and if upon Argument of any writ of error or trial of any appeal from any county Court the Judgment or decree of the County Court shall be reversed the superior Court shall grant Judgment or make such decree thereupon as should

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have been made up or entered in such County Court and shall and may Issue Execution thereupon without granting a writ of Procedendo and to prevent the obtaining of writs of error by surprise the party praying such writs ~~into~~ ~~a~~ ~~civil~~ cause shall give notice in writing to the adverse party at least ten days before motion of his intention to move for such writ and no such writ be granted without affidavit of such notice

Sec. 38th And be it further enacted that the County Courts of the several Counties in this Territory at their sessions next immediately preceding any Term of the superior Court for the District to which the Counties may respectively belong shall nominate thirty six freeholders or House holders good and lawful men of their County and shall thereupon award a writ of venire facias to the sheriff who shall summon the said freeholders or House holders to attend at the next superior Court as Jurors which ~~the~~ they shall be bound to do accordingly under the penalty of being fined in any sum not exceeding thirty dollars unless good cause be shewn to the next Court ensuing by such absent Juror for his absence and from the whole number of Jurors so attending shall be drawn by lot a number not less than thirteen nor more than Eighteen who shall constitute the grand Jury for the Term the residue shall serve as traverse Jurors for the term

Provided Nevertheless that petit Jurors where land trials are at Issue shall be composed entirely of Freeholders

Sec. 39th And be it further enacted that every Juror attending as aforesaid who may reside within the limits of the County where the Court is holden shall be allowed one Dollar pr. day during his attendance and those Jurors who may live in another County shall be allowed one Dollar pr. day and a like sum for every twenty miles they may travel in coming to said Court and it shall be the duty of the clerk of the Superior Courts to grant certificates of attendance to such Jurors in like manner as tickets are directed to be granted to Witnesses and such ticket shall be received by the Sheriff in payment of publick Dues

Sec. 40th And be it further enacted That when ever there shall a want of Jurors for the trial of any cause in any Court of this Territory It shall be lawful for the Court to order the Sheriff or other officer of the Court to summons instantly so many by standers as shall be necessary who are qualified to serve as Jurors to appear in Court for the purpose of trying such cause who shall be bound to attend and serve as Jurors only during the day on which they shall be summoned

Sec. 41st And be it further enacted that all causes

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Civil or criminal which are now depending in any of the courts of this Territory and which shall come within the Jurisdiction of the District Courts Established by this act shall immediately be transfered to and entered on the Records of the superior Court for the District in which the Defendant resides or the cause of action arose or where the crime was committed there to be proceeded upon according to Law

Sec 42 — And be it further enacted that Witnesses in behalf of the Government shall be allowed the same pay for their daily attendance as is allowed to Witnesses in civil cases and such fees for attendance shall be paid by the Defendant on conviction and if the government shall fail in the prosecution of any offence of an infamous nature the Court may at their discretion order the costs to be paid by the prosecutor in case such prosecution shall appear to be frivolous or Malicious and in case the Defendant shall not be able to pay costs or the court shall not think fit to order the prosecutor to pay the same that then and in that case the clerks of the superior Court shall grant a certificate of attendance to such Witnesses in manner as tickets are directed to be granted to Witnesses in civil causes and such tickets shall be received by the Sheriffs in payment of publick dues

Sec 43 And be it further enacted that the Governor for the time being be and he is hereby authorised and required by and with the advice and consent of ~~the~~ two of the Legislative Council as often as it shall be found necessary to issue a Commission to the Judges of the Superior Courts of this Territory empowering them or any two of them to hold a Court of Sessions of the Peace Oyer and Terminer for the trial of Offenders and to hear try and determine all crimes and misdemeanors of what nature or kind soever whereunto such offenders or any of them shall stand charged and to give Judgment and award Execution thereon

Sec 44th And be it further enacted that the supreme Court of Law heretofore in use in this Territory be and same is hereby abolished

as, is herein before directed.

Sec: 47th. And be it further enacted, That every person who shall be appointed a Justice of the peace, and a Justice of any of the County Courts to be established by virtue of this Act, shall before entering upon the duties of the said Office, take an Oath to support the Constitution of the United States, and also the following Oath, to wit, I, A. B. do solemnly swear (or affirm) that as a Justice of the peace, and Justice of the County Court in the County of ——— in all things I will do equal right to the poor and to the rich, to the best of my Judgment, and according to the Laws of the Territory; I will not privately nor openly, by myself or any other person be of council in quarrel or suit, depending before me, and I will hold the County Court of my County, as the Statutes, in that case shall and may direct; the fines and amercements that shall happen to be made, and the forfeitures that shall be incurred, I will cause to be duly entered without concealment; I will not willingly or wittingly, take by myself, or by any other person, for me, any fee, gift, gratuity, or reward whatsoever, for any matter or thing by me to be done by virtue of my office except such fees as may be directed and limited by Law, but I will well and truly do my office of a Justice of the peace, as well within the County Court as without; I will not delay any person of common right, from any cause whatsoever; I will not direct or cause to be directed any warrant by me to be made to the parties, but will direct all such warrants to the Sheriff or Constables of the County, or other officers of the Territory or some other indifferent persons to do execution thereof, and finally in all things belonging to my office, during my continuance therein, I will faithfully, truly and justly according to the best of my skill and Judgment, do equal and impartial justice to the

public and to Individuals, so help me God.

Sec: 48th And be it further enacted, That if any person who shall be appointed a Justice of the Peace, shall presume to execute such office or the office of a Justice of any County Court, without first qualifying himself in the manner by this Act required, shall forfeit and pay the sum of Two Hundred Dollars, one moiety thereof to the Territory, and the other moiety to him or them, who shall sue for the same, to be recovered with costs by action of debt, in any Court having cognizance thereof.

Sec: 49th And be it further enacted, That if the business of any of the said County Courts, cannot be completed, ended and finished, within six days from the commencement of the said Court inclusive; that all such actions, causes and matters that shall be depending in said Court, shall remain undetermined and laid over to the next succeeding term.

Sec: 50th And be it further enacted, That none of the said County Courts, nor any process in any of them depending shall be discontinued for, or by reason of the Justices failing to hold Court upon the day by Law appointed, or if any alteration of any of the days appointed for holding the said Courts, but in every such case, all such process, matters and things depending, shall stand continued, and all appearances upon returns of process, shall be made to the next succeeding term in course, in the same manner as if such succeeding term had been the same Term to which such process had stood continued, or such returns, or appearances had been made; and all Bonds and obligations for appearances, and all returns shall be of the same force & validity for the appearance of any person or persons at such succeeding term, and all summonses for witnesses as effectual as if the next succeeding term had been expressly mentioned therein.

Sec: 51st And be it further enacted, That the Justices of the County Courts, or any three or more of them, shall and may take cognizance of, and are hereby declared to have full power, authority and Jurisdiction to hear, try and determine, all causes at Law, within their respective Counties, when the debt, damages, or cause of action exceeds Twenty Dollars and not more than One Thousand Dollars, and all actions of greater denominations shall be brought, tried and determined in the Superior Courts, or such other Court as shall have cognizance thereof.

Sec: 52 And be it further enacted, That the Justices of each County Court shall be, and they are hereby required, and empowered to mark and lay out the bounds and rules of their respective prisons not exceeding ten acres, which marks and bounds shall be recorded, and renewed, ~~and~~ or altered, from time to time as occasion shall require, and every prisoner not committed for Treason or other felony, giving good security (at the discretion of the Court, or Three Justices thereof out of Court,) to keep within the said rules and bounds, shall have liberty to walk therein, out of the prison, for the preservation of his or their health, and keeping continually within the said bounds, shall be adjudged and admitted in law a prisoner.

Sec. 53 And be it further enacted, That the said County Courts of each County in this Territory, shall have full power and authority to take the probate of wills, and also conveyances of real and other estates, and order the same to be recorded in proper Bounds Books to be kept for that purpose; and the said Courts respectively shall and may make orders for issuing Letters Testamentary, and Letters of Administration, which Letters shall be signed, and issued by the Clerk of of the said Court, and

Court may by Summons, upon application made to them, compel any person or persons whatsoever within their respective Counties, having in their possession any Will or any Testament of any deceased person, to exhibit the same to the Court for legal probate thereof; and whoever being legally summoned, shall in contempt of the Court refuse to produce any such Will in his or her possession, or having been in his or her possession, shall refuse to inform the said Court upon oath when such Will then is, or in what manner he, or she hath disposed of the same; such person shall by order of Court be committed to the common prison of the County there to remain without bail or Mainprize, untill such Will shall be produced and due submission made to the said Court for such contempt. And the said Court shall, and is hereby empowered, in case of such persons removal, to issue such Summons and process for commitment into any County in the Territory. And in case that any person should die intestate who is a non-resident, or not properly an inhabitant of this Territory, it shall and may be lawful for any Justice of the County Court at such death to notify the same to two other Justices of the same County, who shall procure some respectable person to take an inventory on oath of the goods and effects of such deceased person which goods and effects shall by them be deposited in the hands of some respectable inhabitant of the County, who shall have the entire care and possession of such property, to the intent that such estate may be safely preserved and kept subject to the order of the next County Court for Administration thereon.

Sec 54th And be it further enacted, That if any person who shall claim a right to execute any will, or to administer on the estate of any Intestate, and shall think himself injured by order of Court for Letters Testamentary, or of Administration, he shall be entitled to

to an appeal to the Superior Court of the District when such or-
=der shall have been made subject to the same regulations as in
other cases of appeal, and such Superior Court is hereby declared
to have cognizance thereof; and shall at their setting next succee-
=ding such appeal determine the same, and upon such determinatio
had, such Court shall proceed to grant Letters to the persons en-
titled to the same; he or she (if an administration) giving Bonds
with sufficient security for the faithful discharge of the trust; which
Bond and proceedings shall be transmitted by the Clerk of the said
Superior Court to the Office of the County Court from whence the ap-
peal issued there to be entered and filed with the other Testament-
ary transactions in such office — And for the better preserva-
=tion of Wills and other papers relative to the estates of deceased per-
sons, Be it enacted, That all original Wills, Inventories & Accounts
of Executors and Administrators shall remain in the Clerks
office among the Records of the respective Counties, where the
same shall be proved or exhibited; and to the said Wills, Inven-
tories and Accounts any person may have free access, except for
the time they shall or may be removed before any other County
upon the determination of any controversy.

Sec: 55th — And be it further enacted, That there shall be a
Clerk to each of the said County Courts, who shall each give
Bond with sufficiently security in the sum of Ten Thousand Dol-
=lars payable to the Governor or his successor in Office, for the safe
keeping of the Records, and for the faithful discharge of the
duties of his office, which said Bond shall be lodged in the Sec-
=retary's office; and may be assigned and put in suit, and

and recovery here in the same manner and according to the rules and restrictions as herein before prescribed for suits on Bonds given by Clerks of the Superior Courts, and each of the said County Court Clerks shall take an oath to support the Constitution of the United States, and oath of Office herein before directed to be taken by the Clerks of the Superior Courts, and be subject to the same pains and penalties for similar offences.

Sec: 56th And be it further enacted, That all debts and demands of Twenty Dollars and under, where the balance is due on any specialty, note, or agreement, for money or specific articles or goods, wares and merchandize sold and delivered, or for work and labor done, are hereby declared to be cognizable and determinable by any one Justice of the peace who may give judgement and thereupon award an execution against the goods and chattels or body of the debtor which shall be executed and returned by a Constable to whom the same may be directed in the same manner as a writ of fieri facias, or capias ad Satisfaciendum are to be executed and returned. Provided always, That judgment given by a Justice of the peace execution thereon shall be stayed in the following manner, to wit, for all sums not exceeding five dollars, ten days; for all sums above five dollars and not exceeding ten dollars Twenty days, and for all sums above ten dollars Thirty days; for the sum and first payment of which with costs and interest untill paid the party a-

requiring such stay of execution shall give sufficient security if required by the plaintiff, and if the said Judgment shall not be discharged at the time, to which the execution thereon may have been stayed, then it shall and may be lawful for any Justice to issue execution for the same against the principal and his securities, and it is hereby intended and declared that the Judgment of such Justice for any sum not exceeding ten Dollars shall be final and no appeal shall be admitted thereon.

Sec. 57th Once be it further enacted, That when a witness lives in an other County within this Territory on trial before a single Justice, such Justice may issue a Dedimus potestatem to any Justice in the County wherein the Witness resides, who shall take the deposition of such witness as therein directed, which shall be admitted by this act as legal testimony, and the deposition so taken and returned to the Justice who granted the Dedimus potestatem shall by him be received as sufficient evidence in the case for which it was granted.

Sec. 58th And be it further enacted, That if either party upon a trial before a Justice of the peace, shall be dissatisfied with the Judgment of such Justice, such party may appeal to the next County Court for any sum above Ten Dollars first giving security for prosecuting such appeal with effect; Provided, that the cause shall be tried by, and the appeal made from such Justice, five days at least before the Term to which the appeal shall be made; otherwise the cause shall be continued to the next succeeding Term: and provided further, That the Justice or Justices before whom the suit was first heard, shall at the request of the respective parties summon such witnesses to Court as they shall name, but shall not sit in Court to give judgment on the appeal.

Sec. 59th And be it further enacted, That every Justice of the County Courts shall have power, and they are hereby authorised and required upon any complaint being made by any person or persons for any debt or damage, matter or thing cognizable in the County Courts of this Territory, to grant an original attachment against the estate of any person absconding or concealing himself or

removing out of the county privately returnable to the
Court of such County observing therein the rules and re
strictions directed for granting original attachments
in superior courts and all sheriffs and coroners shall
execute and return the same and observe the rules
and Directions appointed to be observed in executi
ing attachments returnable to the superior courts
and the like Judgments recovery and remedy relief
and proceedings shall be had thereupon as in like
cases are grantable in the said superior courts

Sec. 6th – And be it further enacted that any one
Justice of the peace in cases whereby this act he
has Jurisdiction may Issue an original attachment
against the Estate of any absconding or absent Debtor
upon oath of the plaintiff his agent or attorney di
rected to the Sheriff or any constable of the county
first taking sufficient security as in other cases of
attachments and the proceedings thereon shall be
in a summary way in the same manner as in war
rant and the Defendant may replevy the goods at
tached and either party may appeal from the Judg
ment of the Justice in manner as herein before directed

Sec. 81st — And be it further enacted That all original process and all subsequent process thereupon to bring any person or persons to answer to any action, suit or plaint in any County Court (except subpenas for Witnesses) which in Term time may be made returnable immediately shall be Issued by the Clerk of such Court and shall be returnable to the first day of the Term and shall be executed at least five days before the return thereof and if any person shall take out any writ or process while such court is sitting or within five days before the begining of the term such writ or process shall be made returnable to the term next after that then held or to be held within five days as aforesaid and not otherwise and all writs and process Issued made returnable or Executed in any other manner or at any other time than is herein before directed may be abated upon the plea of the Defendant

Sec 82 — And be it further enacted that when any writ or process shall Issue to take the body or Bodies of any person or persons to answer to any plaintiff in any action in any County Court the Sheriff shall return therewith a Bail bond with two sufficient sureties for double the sum for which the person or persons shall be

held in arrest (Executors and persons sued on such penal statutes as do not expressly require bail excepted) to the Clerk on or before the first day of every Term and if the Sheriff shall not return bail, or the Bail returned be held insufficient upon exception taken thereto and entered on the Docket the same term to which the writ shall be returnable and notice given that term to the Sheriff to Justify then and in such case the Sheriff shall be held and stand special bail for the Defendant and the plaintiff may proceed to Judgment and the plaintiff on recovery may take out execution on against the Defendant or Sheriff or both any Law usage or custom to the Contrary notwithstanding Provided always that if the Defendant puts in Bail before the time to plead by the rules herein after mentioned is expired then the Sheriff shall be discharged and provided also that the Sheriff may surrender the Defendant in discharge of himself at any time before final Judgment obtained against him as bail

Sec: 63d — And be it further enacted That when Judgment shall be obtained in any of the County Courts, execution thereon may issue to any County within the Territory where the Defendant or his Goods may be found, and the Sheriff of such County is hereby authorised and required to execute the same and make due return thereon.

Sec: 64th And be it further enacted That the same rules shall be observed in the County courts as are by this act prescribed for the Superior Courts of Law.

Sec: 65th — And be it further enacted That when any person or persons either plaintiff or defendant shall be dissatisfied with the Sentence Judgment or Decree, of any County Court he may pray an appeal from such Judgment, Sentence or Decree to the Superior Court of Law for the District, wherein such County Court shall be, but before obtaining the same shall enter into Bond with two sufficient Surities for prosecuting the same with effect, and for performing the Judgment, Sentence, or decree, which the Superior Court may pass or make therein in case such appellant shall have the Cause decided against him; And when any appeal prayed shall not be prosecuted or the Court before whom such appeal may be determined, shall affirm the Judgment, then shall the Appellant be decreed to pay the Appellee lawful interest from the passing

of the Judgment in the Court by which such appeal may have been granted; and the Bonds taken for fire secution of the Appeal with effect, shall hereafter make a part of the Records sent up to the Superior Court, on which Judgment may be instanter entered up against the Appellant and his Surities; And no Appeal in any Cause or Court whatsoever, shall be abated by the Death of either plaintiff or Defendant, but may be proceeded on by application of the Heirs, Executors, Administrators or Assigns of either.

Sec: 88th And be it further enacted That in every case where an appeal is obtained it shall, in eight days after the adjournment of the Court be the duty of the Clerk to make out an entire transcript of the Record in such Case and deliver the same to the Appellant or his Attorney who shall take the same to the Clerk of the Superior Court and shall by him be entered upon the Docket for trial.

Sec: 89th And be it further enacted That the Justices of the several County Courts in this Territory shall have authority within their respective Jurisdictions from time to time to take Cognizance of all matters concerning Orphans and their Estates and to appoint guardians in such cases where to them it shall appear necessary, and shall take good security of all Guardians by them to be appointed for the faithful discharge of the trust committed

to them.

Sec: 88th — And be it further enacted That every Justice a County Court and Justice of the peace in their respective counties shall have authority upon complaint on oath to them made of any Crime Felony or Misdemeanor com- or done, to grant Warrants to bring the offenders before them; and after examination may commit to prison, or admit the party to bail, if the offence be bailable, and shall take recognizance with good and sufficient security for the Informer to appear at the Superior Court, and prosecute as the Laws of the Territory direct, and likewise for all the Witnesses for and agai[illegible] the offen- -ers to appear [illegible] is cognis- -able ensuing such examination and which recognizance so taken shall be returned to the office of the Court where the matter is to be tried under the penalty of two hundred dollars one half to the informer and the other half to the government to be recovered in any court in the Territory by any person who may sue for the same.

Sec: 89th And be it further enacted that the Sheriffs of the respective Counties shall at least ten Days before the Sessions of the Court for his County summon fifteen Freeholders or Householders, good and lawful men of his County to attend at the ensuing County Court as Jurors who shall attend the said Court as such on pain of the fine of Ten Dollars each; to be paid on the first day of the next su

ceding Term unless a reasonable excuse be then made to Such Court for non attendance, and if not then paid that Execution issue against their Body or goods for payment thereof with Costs.

Sec: 70th And be it further enacted, That this act shall commence and be in force from and after the passing the same, any Law Custom or Usage to the contrary notwithstanding

R. Hunter Speaker of the House of Representatives

John Ellis President of the Council

Approved 26th of January 1802.

[illegible] to provide
[illegible] in the conve[illegible]
[illegible] Organiza[illegible]
of the Courts of
Territory
[illegible]nated in
House of
Representatives
[illegible] January 1802 —

An act for establising and Organising a Militia in this Territory

Section 1st Be it enacted by the legislative Council and the House of Representatives of the Mississippi Territory in General Assembly Convened. And it is hereby enacted by the authority of the same That each and every free white Male Citizen resident of this Territory who are or shall be of the age of sixteen years and under the age of Fifty years (except as is hereinafter Excepted) shall severally and respectively be enrolled in the Militia by the Captain or Commanding officer of the Company within whose bounds such Citizen may reside and that within six months after the passing of this Act.

The Militia how and by whom ~~enrolled~~ to be enrolled.

And it shall at all times hereafter be the Duty of such Commanding Officer of a Company to enrole every such Citizen as aforesaid And also those who shall from time to time arrive at the age of sixteen years (except as before excepted) shall come to reside within his bounds and shall without Delay notify such Citizen of the said enrolement by a proper non commissioned officer of the Company by whom such notice may be proved. - That every Citizen so enrolled and notified shall within six months thereafter or as soon as such can be had in the Territory provide himself with a good Musket or Fire Lock a sufficient Bayonet and Belt two spare flints and a knapsack a pouch with a box to Contain therein not less than twenty four Cartridges

How to be armed and accoutered.

suited to the bore of his Musket or Firelock to contain a proper quantity of powder and Ball – Or with a good Rifle knapsack shot pouch and powder Horn twenty Balls suited to the Bore of his Rifle and a quarter of a pound of powder and shall appear so armed accoutered and provided when called out to exercise or into service except that when called out on Company days to exercise only he may appear without a knapsack That the Commissioned Officers shall severally be armed with a sword or Hanger

And as soon as such can be ~~procured~~ procured in the Territory all Muskets for arming the Militia as is herein required shall be of bores sufficient for balls of the Eighteenth part of a pound agreeable to a law of the United States passed May the Eight seventeen hundred and ninety two And every Citizen so enrolled and providing himself with the arms ammunition and accoutrements required as aforesaid shall hold the same exempted from all suits distresses Executions or sales for Debt or for the payment of Taxes

Executive officers Exempted

Section 2– And be it further enacted that the officers Judicial and Executive the Territorial Treasurer all Ministers of the Gospel licenced to preach according to the Rules of their sect and keepers of the Publick Jails and of Publick Ferries shall be and they are hereby exempted from the Duties required by this Act

Section 3– And be further enacted that the Militia

of this Territory shall be arranged in the Manner following towit. There shall be one Regiment of two Battallions in each County to consist of so many Companies of forty five rank and file as can be formed therein – And the whole Militia of the Territory shall form one Brigade and be officered as follows One Brigadier General with one Brigade Inspector to serve also as Brigade Major with the rank of Major, to each regiment one Lieutenant Colonel Commandant, and to each Battallion one Major, to each Company one Captain, one Lieutenant, one Ensign, four Sergeants, four Corporals, one Drumer, one fifer, or Bugler, and the non commissioned officers to be appointed by the Captain or Commanding officer, of the Company. That there shall be a regimental staff to consist of one adjutant, and one quarter Master to rank as Lieutenants, one pay master one Surgeon, and one Surgeon's Mate, and one Sergeant Major and one Drum Major and one fife Major, to be appointed by the Commanding officers of the Regiments.

Regiments to be numbered and registered in the Brigade Major's office

Section 4 And be it further enacted that it shall be the Duty of the Executive to number by Ballot the several Regiments and cause the same to be registered in the office of the Brigade Major, and every Commission hereafter Issued by the Governor shall express the Regiment to which the person to whom the same is directed shall belong.

Section 5th. And be it further enacted That the Commanding Officers of Regiments and Battallions shall meet at their respective Court Houses on some day in the month of May next to be appointed by the Commanding Officers of Regiments then and there to divide their respective Counties into Districts for the purpose of forming the Battallions and Companies by this act, Established, which District so laid off shall be Designated by certain lines, and bounds, to be Established by them and recorded by the Clerks of the Courts Martial respectively, hereinafter to be appointed.

Section 6th And be it further enacted That it shall be the Duty of the Commanding Officer of each Company so enrolled to proceed forthwith to Divide his Company into Divisions by Ballot from one to four for the purpose of a regular rotine of Duty, when called into actual service and shall return a Roster of each Division and its number in rotation within twenty Days thereafter to the Commanding Officer of the Regiment who shall Order the same to be recorded by the Clerk of the Court Martial. The same regulations shall be observed on the subsequent enrollment of any person unless such Person shall produce a Certificate of his having been before draughted for the above purpose in which case he shall be enrolled accordingly

Section 7 And be it further enacted That there shall be formed in the Town of Natchez and its vicinity by volun-

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tary enlistment one Company of Artillery consisting of one Captain two Lieutenants four Sergeants four Corporals one Drumer one fifer and forty privates - And one Troop of Horse shall be formed in each County consisting of one Captain two Lieutenants one Cornet four Sergeants four Corporals one Trumpeter and thirty privates in like manner by voluntary enlistment And shall be furnished armed and equipped as follows - With each a good Horse at least fourteen Hands High with a good Saddle Bridle valicce Holsters one Pistol and a proper Horseman sword a Cartouch box with Cartridges a pair of Boots and Spurs and be clothed in such uniform as the Commander in chief shall direct and at all Musters the Officers and privates of the Artillery shall be armed and accoutred with small arms in the same manner of the Infantry except the non commissioned Officers who shall have swords instead of fire arms.

Section 8th And be it further enacted that each and every Commissioned Officer of the Militia shall previous to their entering on the Execution of their respective offices, take an oath to support the Constitution of the United States and also the following Oath to wit. I A. B. do solemnly swear that I will faithfully and Justly execute the office of a ... according to the best of my skill and Judgment, So help me God

Section 9th And be it further enacted That there shall be a private Muster of each Company of Militia formed by

virtue of this act once in every three months in every year to be appointed by the Commanding officer thereof at or as near as may be to the Centre of his Company District; There shall be a muster of each Battallion in the month of February in every year to be appointed by the Commanding officers of the Regiment to which such Battallion respectively belong at or as near as may be to the Centre of the Battallion and a muster of each Regiment in the month of August in every year to be appointed by the Brigadeer General or Commanding officer of Brigade at or as near as may be to the Centre of the County which said Company Battallion and Regimental Musters shall continue one day each and no longer; of the times and places of the said Musters the Brigadeer General or Commanding officer of the Brigade for the time being shall cause notice to be given to the Commanding Officers of Regiments the Commanding officers of Regiments shall give notice of the Regimental and Battallion Musters to the Commanding officers of Battallions, the Commanding officers of Battallions shall give notice of the Regimental and Battallion Musters to the Captains or Commanding officers of Companies and the Captains or Commanding officers Companies shall give notice of the Regimental Battallion and private Musters to every person of their respective Companies. And to that end the Commanding Officers of Companies may order so many of their Sergeants as they shall think fit to give such notice which may be done by personal summons or in

writing left at the usual place of abode of the person so to be notified the notice to be given by the Commanding Officer of the Brigade, Regiments, and Battallions, shall be in writing, delivered in person, or left at the usual place of abode of each person to be notified, either by such Commanding Officers themselves, or by such Officer or Officers of their respective Commands, as they may think fit to order, the said notices shall be given by the Commanding Officer of the Brigade, to the Commanding Officers of the Regiments, at least thirty days, by the Commanding Officers of the Regiments to the Commanding Officers of the Battallions, at least fifteen days, by the Commanding Officers of Battallions to the Commanding Officers of Companies at least ten days, and by the Commanding Officers of Companies to each person in their Companies, at least five days, before such Regimental, Battallion, or Company Musters (as the case may be) shall be appointed to be had.— Any Officer ordered as aforesaid, to give such notice, and failing therein (without a reasonable excuse) shall forfeit and pay for every such offence, ten Dollars, And every Sergeant so failing shall forfeit and pay the sum of two Dollars for every such failure, to be recovered as other fines hereafter to be established.— Every Officer and private shall appear at his respective Muster field, on the day appointed by Eleven O'Clock in the forenoon.— At every Muster each Captain or Commanding Officer of a Company shall call his Roll, or cause the same to be done in his presence, examine every person belonging thereto, and note down all delinquencies occuring therein, and make return thereof, at the next Regimental or Battallion Muster, to the Commanding Officer of his Battallion,

including those which may occur on that day. And every Commanding Officer of a Battallion, shall at their Regimental or Battallion Musters (as the case may be) in like manner, call his role or cause the same to be done, in his presence; examine and note down all delinquencies in his Battallion, and make return thereof, together with those reported from Commanding officers of Companies, to the Commanding Officer of the Regiment, to which he belongs on the day next succeeding such Regimental or Battallion Musters (as the case may be) who shall lay the whole before the Court, hereafter appointed to take cognizance of and determine on them; Provided that the Commanding Officer of a Battallion shall not be obliged to extend his role call, or Individual examination, beyond the Officers unless he shall observe some apparent necessity therefor, and to each of said returns shall be annexed the following Certificate, Iowit: I Certify that the returns hereunto annexed contain all the Delinquencies which have occured in my Company, since my last return, having examined the same as the law directs.— And to the Battallion returns shall be added, and that the reports which accompany them, are all which have been made by the Commanding officers of Battallions, Section 10th And be it further enacted That every Captain or Commanding Officer of a Company, shall within ten days after every Regimental and Battallion Muster, make up and report to the Commanding Officer of his Battallion, a return of his Company in such manner, and form, as shall be furnished by the proper Officer from time to time; It shall be the Duty of Command

ing Officers of Battallions, to make like returns to the Commanding officers of Regiments, in ten days after such regimental or Battalion Musters, who shall cause the adjutant of his Regiment, to make like returns thereof to the Brigade Inspector, within thirty days thereafter

Section 11th And be it further enacted That in all cases of Death, absence, or resignation of any Lieutenant Colonel Commandant, Major, or Captain, the next Officer in rank in his respective Command, shall be considered as the commanding officer, during such vacancy, and liable to perform the Duties required by this Act, and for neglect therein shall incur the penalties annexed thereto.

Section 12th And be it further enacted That it shall be the Duty of every Commander of a Regiment, Battallion, or Company at every of their respective Musters, to cause the Militia to be exercised, and trained, agreeable to the mode of Discipline, prescribed by Congress, under pain of being arrested, and tried for breach of their Duty, and for this purpose, the said Officers, are hereby authorised to order the most expert, and fit officer in their respective Commands, to perform that Duty

Section 13th And be it Further enacted, That to the end General knowledge of the Rules of discipline, Established by Congress in their Resolution of the 29th day of March 1779, may be diffused the Executive is hereby authorised, and required, to procure and have a sufficient number of Copies, of the said rules printed, and bound in boards, to afford to every Commissioned Officer of the Militia one

and to cause them to be delivered to the Commanding Officers of Regiments, to be by them duly distributed; without delay, and upon the Death, resignation or removal of any Officer, as aforesaid, the plan delivered him, shall revert to the Publick, and the Commanding Officer of the Battallion, in which such vacancy shall occur, shall deliver the same, to a new appointed officer, who may not have received one, and for defraying the necessary expence thereof, the Executive shall draw on the Treasury which shall be paid out of any Monies, not otherwise appropriated.

Section 14th And be it further enacted, that no officer, or Soldier, ordered or directed by this Act to appear at Muster as aforesaid, shall be liable to be taken, or arrested by any civil officer in any action, or process, whatsoever, on the day such person or persons is, or are directed to appear, or in a reasonable time either going to, continuing at, or returning home from the place appointed to Muster, but every such arrest is hereby declared to be void, and every person required by this Act to attend Musters, going to, or returning from any Muster, shall be suffered to pass over any Bridge, and shall be put over any ferry, without delay, free from any charge whatsoever, and if any ferryman shall demand pay for, delay or refuse to put such person or persons over, he shall forfeit and pay for every such offence, the sum of one Dollar, to be recovered by a warrant, from a Justice of the peace, one half to the informer, and the other half to the use of the County, wherein the offence was committed

Section 15th And be it further enacted That the commis-
sioned officers of the several regiments, shall meet twice
in every year, within their respective counties, for the pur-
pose of being trained, and instructed by the Brigade In-
spector, the days and places of meeting, to be fixed on by
the commanding officer of the Brigade, the officers
thus assembled, shall continue two days and no long-
er, every time they shall be called out; every officer fail-
ing to attend such meeting, or being summoned not
having a reasonable excuse, to be adjudged of by a court
martial, shall forfeit and pay five dollars, to be ap-
propriated as are the other fines by this act Required.
Section 16th And be it further enacted That any of-
ficer who shall be guilty of disobedience, or other mis-
behaviour, when on Duty, or shall at any time, be
guilty of any conduct unbecoming the character of
an officer, shall be put under arrest, by his com-
manding officer, and tried as shall hereafter be directed.
Section 17th If any noncommissioned officer or soldier
shall behave himself disobediently, or mutinously, when
on Duty, or before any Court, or Board directed by this act
to be held, the commanding officer, court, or Board may
confine him for the day, and if any bystander shall exci-

upt, molest, or insult any officer, or soldier, while on duty, at a Muster, or shall be guilty of like conduct, before any Court, or board as aforesaid, the commanding officer or such Court or Board, may cause him to be confined for the day.

Section 18th And be it further enacted That the commanding officers of Regiments, shall cause to be purchased out of the monies arising from the fines a set of Colours for his Regiment, and also a set of Colours for each Battallion, in his Regiment; he shall in like manner also procure for each company, in his Regiment, a Drum and fife or Bugle horn, and on the colours and Drum shall be marked the number of the Regiment, and Battallion together with the name of the County to which they belong.

Section 19th And be it further enacted That the Governor be authorised and empowered, on any invasion or insurrection, to call forth such a number of Militia and from such Counties, as he may deem proper, and order for the Militia to be called forth as aforesaid, shall be sent to the Commanding officer of the Brigade, with notification of the place, or places of rendezvous, who shall immediately take measures for detaching the same with the necessary numbers and ranks of officers by

detail and rotation of Duty.

Section 20th And be it further enacted that if any sudden invasion shall be made, into any county, in this Territory, or in case of insurrection, in any County, the commanding officer, in such County, is hereby authorised and required, to order out the whole, or such part of the Militia, as he may think necessary, and in such manner, as he may Judge best, for repelling or suppressing such invasion, or insurrection, and for assembling the Militia required upon such occasions, or by order of the executive, the same Measures shall be taken, to summon them, as is directed in the case of Musters.

Section 21th And be it further enacted, that whenever any Militia, shall be called forth into actual service as aforesaid, they shall be governed by the articles of war, which Govern the troops of the United States, and courts Martial shall be held as therein directed, to be composed of Militia Officers only, for the trial of any person in the Militia, but to the cashiering of any Officer or capital punishment of any person, the approbation of the Executive, shall be necessary: When any Militia shall be in actual service, they shall be allowed the same pay and rations, as are allowed by congress, to the troops in the service of the United States.

Section 22d And be it further enacted that the commanding officer of every Battalion of Militia, or the Eldest Captain where no commanding officer of a Battallion shall reside, shall once in every two months, appoint an officer and so many men of the Militia, as to him shall appear necessary, whose duty it shall be once in every month, or oftener if thereto required, by such officer, to patrole and visit all negro quarters, and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons as aforesaid, unlawfully assembled or any other strolling about from one plantation to another, without a pass, from his or her master, mistress, or owner, if he thinks proper may order him her or them so offending, to receive any number of Lashes not exceeding ten, and if there shall be reason to suspect any such person, or persons, as aforesaid to be runaway, or if they shall behave in such manner, as in the opinion of such officer to deserve a greater punishment, he shall take them before the next Justice of the peace, who if he shall see cause is hereby authorised to order every such slave servant or strollers or other disorderly person as aforesaid to receive any number of Lashes not exceeding twenty, on his or her bare back, and in case one company of patroles, shall not be sufficient more companies may, in like manner be ordered for the same

Service. And after every Patrole the officer of every party shall once in every three months, at least, return a report in writing, upon oath, to the clerk of the County Court in which he shall reside, to be by him laid before the Court, at their next session, and if the said Court shall adjudge the said Patroters to have performed their duty according to law, they are thereupon empowered, and required to levy ~~twenty~~ Seventy five cents, upon the County, for every twelve Hours, each of them, shall so patrole, to be collected as other taxes, and shall be paid to each patroler, by the County treasurer, upon his producing a certificate, from the Court of his service, and every officer, failing to appoint patrolers, according to the direction of this Act, shall forfeit and pay twenty Dollars, for every such failure, which fines shall be laid, collected, and accounted for, and appropriated as in here in directed, for levying, accounting for, and appropriating the several fines, and penalties by this Act directed. —

Section 23d And be it further enacted That ~~any~~ every Militia Man removing out of the bounds of one company to another, shall apply to the commanding officer of the company, to which he did belong, who shall give him a discharge, certifying the class, to which he belongs, and whether he has served his Tour of Duty, or not, and the time and date of such service, which certificate the said Militia Man, shall produce to the

captain or commanding officer of the company in whose c
bounds he next settles, within ten days after his settlement,
and the said captain or commanding officer, is hereby require
to enroll him in the numerical class, specified in the said
certificate, And if the Militia man shall fail to pro
duce the certificate, as above directed, he shall be enrolle
in the class destined to perform the next tour of
Duty. And the commanding officer of the com
pany refusing to grant a certificate upon ap
plication to him made, shall incur a penal
ty of thirty Dollars, one half to the informer, the
other half to be collected, and applied as the other
fines imposed by this act

Sec. 24th. And whereas it is necessary and expedient, that all conduct, which in a Military light may be received as offences, should be noticed, and proper Tribunals instituted for the trial thereof, as well also for enquiring into delinquencies and assessing fines thereon; Be it therefore enacted, That the Governor shall have power to arrest the General, and order for his trial a General Court Martial, to consist of thirteen members, five of whom shall be Field Officers, and eight Captains, and the proceedings of such Court, shall be returned to the Governor and by him transmitted to the President of the United States, for his final approbation or confirmation; and all other Officers for misconduct, and upon trial and conviction, before a Court Martial they may be censured or cashiered: The General may arrest and bring before a Court Martial all officers under his command, for misconduct, or report them to the Governor for trial, at his option; a Lieutenant Colonel Commandant, may arrest any officer under his command, and in like manner report him to the Governor for trial, or at the option of such Lieutenant Colonel Commandant, a General Court Martial to consist of nine officers, may by his order be held in his County, for the trial of such as shall be under the rank of a Field Officer, the President of the said Court shall be a Field Officer, and three at least of the members shall shall be Captains; and where there is not a sufficient number of officers in any Regiment to constitute a Court, where the arrest is made, the commanding officer of the Regiment, may call upon the commanding officer of any adjacent Regiment to order as many officers, from such Regiment, as will be sufficient to make a Court, and such Court may, on conviction, censure or cashiere any officer so tried, and their sentence shall be final, saving to such officer, an appeal to the Executive, if he shall think proper, in which case the commanding officer shall furnish him with

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a copy of the proceedings of said Court, and any officer who may be cashiered by the sentence of a Court martial, shall forever after be incapable of holding any office of honor or profit in this Territory.— Any noncommissioned officer or Soldier offending, shall be tried by a like General Court martial, and may on conviction be censured or fined at the discretion of the Court, not exceeding Twenty Dollars — For obtaining the necessary evidence for the trials aforesaid, the Governor, General or Commanding Officer of the Regiment (as the case may be) shall issue his Summons, and every person failing to attend, shall forfeit and pay, upon a summons from the Governor, twenty Dollars, and upon a summons from the General or Commanding Officer of the Regiment, six Dollars, to be reported by the commanding Officer amongst other delinquencies to the Court martial, provided, that a reasonable excuse shall always be admitted.

Sec: 25th And be it further enacted, That the Commanding officers of Regiments shall on some day in the months of February and August, not exceeding fifteen nor less than ten days after the Regimental and Battalion musters, order the Commanding officers of Battalions and Companies, to meet at the places where their last Battalion musters respectively were held, a majority of whom shall form a Court of Inquiry and assessment of fines; and it shall be the duty of the Lieutenant Colonel Commandant to preside at such Boards, and in case of his absence by sickness or otherwise, the next officer in rank shall preside; and Court martial shall take the following oath, to be administered by the Senior officer present, and afterwards by any other officer of the said Board, to him, to wit, I do solemnly swear that I will truly and faithfully enquire into all

delinquencies

delinquencies which appear on the Returns to be laid before me, and will assess the fines thereon as may seem just, without favor, partiality or affection, so help me God. — The Lieutenant Colonel commandant, or in case of his absence the next Officer in Rank, shall then lay before the Court all delinquencies, as directed by this Act, whereupon they shall proceed to hear and determine on them. —

Sec. 25th. And be it further enacted, That all fines to be assessed by virtue of this Act shall be collected by the Sheriff of the County, upon a list thereof certified by the Clerk of the said Court martial and delivered to the Sheriff on or before the first day of January in every Year, who shall give his receipt therefor and account for the same to the Lieutenant Colonel Commandant, or his Successor on or before the first day of November in the same Year, and shall be allowed thereon the same commissions as for other public monies, and on failure, the Commanding Officer, or his Successor, shall, on six days previous notice, obtain Judgment for the same in the County Court with costs, and should any person so charged with fines fail to make payment on or before the first day of May in any Year, the Sheriff is hereby authorised to make distress and sale thereof, in the same manner as may be directed in the collection of taxes. —

Sec. 27th. And be it further enacted, That the commanding Officer of every Regiment, shall on or before the last day of December in every Year, render to the Executive an account upon oath, of all monies which shall have come into his hands, by virtue of his office, and of his disbursements, and if there shall remain any monies in his hands, the same shall be paid into the Treasury in aid of the contingent Fund. —

Sec. 28th. And be it further enacted, That for enforcing obedience to this Act, the following forfeitures and penalties shall be incurred for delinquencies, to wit, by a Lieutenant Colonel Commandant or Commanding officer of a Regiment for failing to summon any Court or Board, to transmit any recommendation of an officer or officers to the Governor, to report delinquencies, to appoint a Regimental or Battalion muster, to deliver any commission or commissions, to make returns of his Regiment as by this Act directed, shall for every such offence or neglect, forfeit & pay One Hundred Dollars; failing to send into actual service any Militia legally called for, or to turn out his Militia upon any invasion or insurrection of his County, two hundred Dollars — By a Major for failing to to attend any Court or Board, to give notice of any Regimental or Battalion Muster, to examine his Battalion, to report delinquencies or to make any return as directed by this Act, he shall forfeit and pay for each and every such offence and neglect Twenty five Dollars; failing to call forth from his Battalion with due dispatch, any detachment of Men and Officers as shall be required from time to time by the Commanding officer, or any call from the Governor, invasion of or insurrection of his County, or requisition from a neighboring County, Eighty Dollars — By a Captain for failing to attend any Court, to enroll his company, to appoint private musters, to give notice of Regimental or Battalion musters, to attend any muster armed and equipped, to call or cause his roll to be called, examine his company, and report delinquencies, to make any return as directed by this Act, he shall forfeit and pay for each and every such offence and neglect Twenty Dollars; failing to call forth such Officers and men

as shall from time to time be legally called for from his company, upon
invasion or insurrection in his County or requisition from an adja
cent County, or failing on any such Occasion to repair to the place
of rendezvous he shall forfeit and pay forty Dollars by a sub
altern officer for failing to attend any court or muster armed
and equipt as directed ~~as directed~~ for each and every such
offence he shall forfeit and pay ten Dollars failing to
repair to the place of rendezvous, armed &c. as required,
when ordered upon any call from the Governor, invasion
of, or insurrection in the County, or requisition from any
neighbouring County, he shall forfeit and pay twenty Dollars
And moreover the said officers for any of the said offen
ces shall be liable to arrest, and trial, as Military offen
ders, by a non commissioned officer or private for
failing to attend at any muster, armed and equipt
as directed by law, one hundred cents, failing to repair to
his rendezvous, when ordered upon any call, from the Go
vernor, invasion of, or insurrection in the County or re
quisition from a neighbouring County, he shall forfeit and
pay ten Dollars; Provided always that a reasonable ex
cuse shall be admitted

Section 29th And be it further enacted that the com
manding officers of Regiments shall on the day of his
Regimental Muster first to be held, under this act
his Muster being over, order the Major and Captains of

his Regiment to assemble at some convenient place, or near the muster ground, and then and there appoint by Ballot a clerk and provost Martial, who shall attend the courts or Boards herein before directed to be held, such clerk shall keep a fair Record of the proceedings of such courts or boards, as also of the Roster returned by the several captains, or commanding officers of companies for regular rotine of Duty, and all other Duties required by this Act, And to gether with the provost Martial receive such allowance, to be paid out of the fines, arising from delinquencies, as the court or Board shall think reasonable.

Section 30 And be it further enacted that any court Martial may for good cause shewn remit any fines imposed by a former court Martial Provided that not more than two courts Martial, shall have intervened between such imposition, and application for remission.

Section 31st And be it further enacted that court Martial may exempt any Militia Man from duty, on account of bodily infirmity, and may again direct such person to be enrolled when able to do duty.

Section 32d And be it further enacted That all Militia officers shall reside within the Bounds of their respective commands.

Section 33d And be it further enacted that it shall be the duty of the Brigade Inspector, to attend the Regimental, and Battallion meetings, of the Militia, composing the Brigade, during the time of their being under arms, to inspect their arms, &c and superintend their exercise agreeable to Law, and such Orders as he may receive from time to time from the commander in chief, and make returns to him of the Militia of the Brigade, at least once in every year, reporting therein the actual situation of the arms &c, and every other thing which in his Judgment may relate to their Government, and general advancement of good Order, And for such services and other Duties required of him by this act, he shall be allowed seven hundred Dollars per year, to be paid by the treasurer on warrant from the Governor, who is hereby authorised and required to grant the same quarterly yearly, on proper application to him made.

Section 34th And be it further enacted that all Monies paying into the treasury of this Territory, by virtue of this act, shall be appropriated as a fund, for the purpose of carrying this Law into effect, and the treasurer shall keep all monies arising from fines, under this Law, separate from all other Monies, and shall keep a separate Book of the same and the expenditures thereof.

Section 35 And be it further enacted, that the companies of each Regiment or Battallion, shall rank in the same according to the age of the commission of several Captains, and if two or more officers of the same shall have commission of equal date, the priority shall be decided by drawing lots in the presence of a majority of the field officers of the Regiment or Battallion which lot shall be marked on the several commissions and for ever conclude the parties.

Section 36 And be it further enacted that the Governor of this Territory, shall prescribe the Colour fashion of the uniform Clothing or Regimentals the officers and privates of the Militia, and if within three months after the same shall be pronounced in General order, it shall be deemed a duty to conform strictly thereto.

Section 37th And be it further enacted, that the governor shall have authority from time to time, to appoint a number of aids, not exceeding four, as to him may appear proper.

Section 38 And be it further enacted, That this act shall commence and be in force for and during the public Term of three years.

and to the end of the next session and no longer
from and after the passing thereof any other Law
Regulation or usage to the contrary notwithstand-
ing.

R. Hunter Speaker of the
House of Representatives
John Ellis President
of the Council

Approved January 27th 1802 —

William C. C. Claiborne
Governor of the Mississippi Territory

1802

Acts of Legislature
Council Miss. Territory

The Act for establishing under the
Stating the Mass of
the Territory
29th January 1802.

Filed

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An Act concerning Counsel and Attornies at Law.

Method of obtaining licence

Sec: 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly Convened, and it is hereby enacted by the Authority of the same, That before any person shall be licensed to practise as Counsel or Attorney at Law in any of the Courts of this Territory, he shall produce to those authorised hereby to grant licenses, a Certificate from the Executive of the State or Territory from whence he came, or from the Court of that County in this Territory where he hath usually resided for the last preceeding six months, that he is a person of honesty, probity and good demeanour and upwards of twenty one Years of age; and two of the Judges of the Superior Courts, upon such Certificate being produced to them may, and they are hereby authorised and empowered to grant to the person producing the same a license under their hands and seals to practise Law in the Superior and ~~inferior~~ County Courts of this Territory, and also in the Courts of equity if after examination they are of Opinion that he is duly qualified.

Counsel and Attorney be qualified

Sec: 2. And be it further enacted, That every Counsel and Attorney before he shall be permitted to practise in any of the Courts of this Territory shall first produce his license in each Court where he intends to practise, and in the presence of such Court, take an Oath to support the Constitution of the United States, and also the following Oath of Office.

I, A. B. do Solemnly swear, that I will honestly demean myself in the practise of the Law, as Counsel or Attorney, and will in all respects execute my Office according to the best of my knowledge and abilities — If any person shall presume to practice as Counsel or Attorney in any of the said Courts without a License first Obtained as aforesaid, or without qualifying himself in such Court in the manner before ~~directed~~ he shall for every such Offence forfeit and pay the sum of two hundred dollars, for every Cause he shall prosecute or defend, in any of the said Courts, One moiety to the use of the informer, the other moiety to the use of the Territory, to be recovered by action of debt, in any Court of Record.

Penalty for practising without qualifying

Sec: 3. Every person that hath already been, or shall hereafter be Convicted of any felonious Crime, shall be incapable of Obtaining such license, or if licensed the Judges of any

incapable of obtaining a licence or practising

any Court in which such person may practise on proof thereof being made to them, may Sus-
pend his License.

License of Counsel and Attorneys may be suspended.

Sec: 4 And be it further enacted, that if the Judges of the Superior Courts, from their own Observation detect any mal practice in the said Courts, in any Counsel or Attorney of those Courts, or if Complaint in Writing be made to them of such mal practise in the said Courts, or in the County Courts of any County, the party accused shall be summoned to shew Cause why an information should not be filed against him. and if such information should be ordered, and the Counsel or Attorney so Offending should be found guilty of the matter therein Charged, the said Judges of the Superior Court may either suspend his License during a certain time, or Vacate it altogether as they shall Judge most proper, first ordering a Jury to be empannelled for the trial of such information. And the Judges of the Superior, and Justices of the County Courts, shall have power to fine any Attorney for misbehaviour, or contempt offered to them and may cause any Attorney practising in said Courts, to find Security for his good behaviour.

Attorneys to pay costs of suits dismissed for non attendance & be liable to the party for damages

Sec: 5. And be it further enacted, that if any suit shall be dismissed, for the non attendance or Neglect of an Attorney practising either in the Superior or County Courts not having a Just and reasonable excuse, it shall be at his Cost; and he shall moreover be liable for all damages his Client may sustain, by such dismission or any other neglect of his duty to be recovered in any Court of Record.

May be proceeded against in a Summary way by any Creditor

Sec: 6 And be it further enacted, That every Attorney receiving money for his Client, and refusing to pay the same when demanded, shall be proceeded against in a Summary way on notice before any Court of Record, in the same manner as Sheriffs are or may be liable to be proceeded against for money received on Executions.

Sec: 7. And be it further enacted, That in all cases where the Sheriff is, or may be authorised by Law to take the engagement of an Attorney endorsed upon the writ that he, such Attorney, will appear for the defendant or defendants; every Attorney thus entering into such engagement, who shall fail to enter an appearance agreeably thereto, shall forfeit to the defendant or defendants twenty five dollars, for which Judgment shall be immediately entered and execution issue thereon.

Only two Attorneys to a side exception

SEC: 8. And be it further enacted, That the Judges of the Superior Courts, and the Justices of the County Courts, shall not suffer, in Suits hereafter to be Commenced more than two Attornies to argue on any One side, except in Criminal Cases.

power of Attorney to confess Judgment before Suit brought void

SEC: 9. And be it further enacted, that if any Attorney or Other person practising as an Attorney, shall presume to appear under any power of Attorney made before Action brought, for Confessing or suffering Judgment to pass, by default or Otherwise, for any defendant in any Court of Record within this Territory, shall for every such Offence forfeit & pay two thousand dollars, to such defendant, for his or her Own use, to be recovered with Costs by action of debt or information, in any Court of Record, and moreover shall be liable to an Action for damages, at the Suit of the party aggrieved.

no Justice or Officer to appear as attorney &c

SEC: 10 And be it further enacted, that no Justice of the peace, Sheriff, under Sheriff or Clerk of any County Court shall appear or plead as Attorney, for any person or persons whatsoever, in the Court of the County whereof he is a member, Officer or Clerk, except only as General Attorney for any person or persons, not residing or being within this Territory under penalty of being fined by such Court, in the sum of fifty dollars for every such Offence, to the use of the same County towards lessening the levy thereof.

Lawyers fees

SEC: 11. And be it further enacted, That the Lawyers in this Territory, shall not demand, directly or indirectly, or by any device, way or means, whatsoever, take or recover before the Suit or Suits they are or shall be employed in, shall be finally determined, any greater fees for their Services than are allowed by Law; And any Lawyer, exacting, taking, receiving, or demanding any greater fee or reward for his Services, before he has performed the said Services, or finished the Suits in which he may be employed, shall forfeit and pay three hundred dollars for every Offence, One half to the Territory and the other half to the informer, to be recovered by action of debt or information, in any Court of Record within this Territory.

4

~~against whom such Suit shall be brought.~~

Sec. 13. And be it further enacted, that nothing in this act shall be so construed as to prevent or deprive any Citizen from the privilege of personally prosecuting or defending any Suit in which he may be a party.

Sec. 14. And be it further enacted, that this Act shall commence and be in force, from and after the passing thereof, any Law former regulation or usage to the Contrary notwithstanding.

Test. Israel Ch Ruark
Clerk to the House of Representatives

H. Hunter Speaker of the House of Representatives

John Ellis President of the Council

William C. C. Claiborne
Governor of the Mississippi Territory

Approved Jan. 7th 1802

The Act concerning Counsel & Attorneys &c Laws

30th of January 1802.

Originally in the House of Representatives, Office, Jan. 16. Israel Clerk to the House of Representatives

Act

#

AN Act to establish the fees of the Several Officers herein after named.

Sec: 1. Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly Convened, and it is hereby enacted by the Authority of the same, That the Clerk of the Superior Courts of Law, shall receive for every leading process, returnable to the first Court, including all services thereon, together with the dismission, or final Judgment where either happens; One dollar and fifty Cents; for every Continuance or Reference of every Cause after the second Court, including all fees for necessary Service, Seventy five Cents; for the Court at which the Cause is determined including all fees for every necessary Service thereon, and entering final Judgment inclusive, two dollars; for entering every Presentment or Indictment, together with Charging the Prisoner and entering his plea One dollar; for every Subpoena, provided the party insert no more than four witnesses in the same, twenty five Cents; for every Execution or Order of Sale, when necessarily issued and returned, including all Services thereon, with taxing Costs, and Copy, endorsing satisfaction, One dollar; for every Scire facias against Bail, with making an Issue thereon, or entering Judgment without plea, including fees for every necessary Service thereon, One dollar — for giving a Copy of a Record of any Cause, when demanded by either of the parties, One dollar; for every recognizance Thirty Cents; for every Order or Rule of Court and giving Copy thereof, when required, fifty Cents; for searching a Record out of Court, Eighteen Cents; for a Commission to take the examination of a feme Covert, or witnesses in any Cause depending, entering the Return thereon, and all other necessary Services thereon, forty Cents; for a Special Verdict, demurrer, or motion in arrest of Judgment, Sixty Cents; for a Writ of Certiorari and Supersedeas, including all Services thereon and fifty Cents One dollar; for a Writ of error, with a transcript of the Record, one dollar; for making out Certificates of witnesses and Jurymens attendance, ten Cents; for recording every bail Bond, twenty five Cents; for rendering to the Treasurer, an account of the fines, forfeitures and Amerciaments that are due and payable to the use of the Territory; to be paid by the Treasurer out of public Monies, two dollars.

Sec: 2nd And be it further enacted, that the Clerks and Masters in equity, shall receive the following fees and no more; for a report on an answer, Twenty five Cents; on a plea and answer, fifty Cents; on a demurrer and answer

fifty Cents; for an affidavit to an answer fifteen Cents; On an Affidavit to a bill fifteen Cents; for a seperate affidavit, twenty five Cents; for a Copy by the Office Copy sheet, ten Cents; for a report, stating an account, one fourth p.c Cent, on the amount of each account exhibited, when the account is made fifteen hundred dollars, and one eighth per Cent for all sums over fifteen hundred dollars; for Copies of proceedings and exemplifications per Copy sheet ten Cents; for taking a Bond twenty five Cents; for every rule given for service twenty Cents; for every rule not for service ten Cents; for every Subpoena, writ, or Other process fifteen Cents; for every Dedimus or Commission twenty five Cents.

Sec: 3d And be it further enacted, that the Clerks of the County Courts shall receive for their Services the following fees and no more, to wit— for every leading process returned to the first Court, including all services, together with dismission, or final Judgment; where either happens. One dollar and twenty five Cents; for every continuance or reference of any cause after the second Court, including all fees for necessary Service thereon, fifty Cents, for the Court at which the Cause is determined, including all Service One dollar and fifty Cents; for every Subpoena, provided the party insert no more than four witnesses in the same, twenty five Cents; for every Execution or Order of Sale, when necessarily Issued, including all Services thereon with taxing Costs, and Copy, and entering Satisfaction, Sixty Cents; for every Scire facias Issued at the request of the plaintiff, and including fees for every necessary Service thereon, One dollar; for giving a Copy of a Record when demanded by either of the parties, One dollar; for entering on the minutes the probate of Wills, qualifying Executors, making Certificates, recording the will, and giving Copy thereof, two dollars; for granting administration, taking Bond and all Other Services, One dollar; for proving and recording at length, in bound Books to be kept for that purpose, an Inventory account of Sales, or account Current exhibited by an Executor, administrator or Guardian, or for Search, Copy, & Certificate of the same, One dollar; for every Tavern Licence and Bond, and all Services thereon One dollar and fifty Cents; for Copy of Tavern rates twenty five cents; for searching a Record out of Court, twenty Cents; for proving and recording a Conveyance of Land, or Other Estate, one dollar; for Commission to take the examination of Witnesses on any Cause depending in said Court, and all necessary Services thereon twenty—

twenty five Cents; for a Guardians or Other Bond taken in Court, including all Services thereon, One dollar; for Indentures for binding out apprentices, including fees for all necessary Services, One dollar; for a Special Verdict, demurrer, or motion in arrest of Judgment twenty five Cents; for an appeal with a transcript of the Record, one dollar and fifty Cents; for recording a power of Attorney, or Bond fifty Cents; for a Copy thereof forty Cents; for making out Certificate of Witnesses attendance, eight Cents; for each Security taken in Issuing a writ, twenty Cents; for Copy of a declaration, twenty five Cents; for furnishing the County Treasurer, with a list of the amount of the County Tax for one Year, One dollar, to be paid by the Treasurer out of the County tax; and all public Services done for the County by the Clerks of the County Courts, are hereby declared to be ex Officio, and the respective Courts may allow reasonable satisfaction for the same, annually, not exceeding fifty dollars.

SEC: 4. And be it further enacted that the Clerks of the several Superior & County Courts of this Territory, shall, and they are hereby required, to put up in some public place in their Office, an exact Copy of the fees by this Act allowed; and also in the Court House during the Session of each Court, and for every such failure, they shall forfeit and pay the Sum of twenty dollars, to be recovered by warrant, for the use of any person who shall sue for the same.

SEC: 5. And be it further enacted, that after the passing of this Act, the Sheriffs of the Several Counties in this Territory, shall, and may receive for their Services the following, and no Other fees, to wit, — For every arrest One dollar; for every Bail Bond twenty five Cents; for serving a Copy of a declaration twenty five Cents; for serving a Subpoena, for each person named in the same fifty Cents; for hanging a person in conformity to Judgment of a Superior Court, ten dollars; for pilloring a person, One dollar; for putting a person in the Stocks, and releasing One dollar; for every Commitment, fifty Cents; for every Release fifty Cents; for serving and attending on any person on a Habeas Corpus, per day two dollars; for imprisonment of Felons, or debtors, or any Other person, for each prisoner per day, for feeding One pound of wholesome Bread, one pound of good roasted or boiled flesh, and a sufficient quantity of fresh water, and every Other necessary attendance, keeping the Prison clean, forty Cents; — for an attachment, the same, as for an arrest; and if further trouble by removing of goods, to be taxed by the Court; for executing a warrant of distress, or an execution against the Body, or Goods, three per Cent; for summoning, impanneling, and

attending on every Jury in every Cause in Court, fifteen Cents, where a Special Venire shall Issue by Order of Court, for Summoning each Juror and attending the Same, twenty five Cents; for attending on the premises, on a Special Venire facias, per day two dollars; for Serving a Capias, or Indictment, One dollar; for Calling every Action in Court, Seven Cents.

SEC: 6. And be it further enacted, that the Coroner may take and receive for his services, the following fees — For attending on every Inquest Eight dollars, and the same fees for discharging the duties of Sheriff, as such Sheriff himself would be entitled to by this Act, for performing the Same Services. —

SEC: 7. And be it further enacted, That a Justice of the Peace, shall be entitled to the following, and no greater fees; for every Warrant twenty five Cents; for every Judgments twenty five Cents; for every Execution twenty five Cents; for all Subpoenas Issued in any Suit twenty five Cents; for every attachment and Bail Bond, one dollar.

SEC: 8. And be it further enacted, that Constables shall be allowed, the following & no greater fees, for their Services; for every Warrant executed, fifty Cents for every Subpoena twenty five Cents; for every attachment or Execution, fifty Cents, Commission on Sales by execution or attachment Six per Cent; for attendance every Court when Summoned by the Sheriff One dollar per day; for whipping of a negroe by Order of Court, or by Order of any Justice of the Peace fifty Cents. —

SEC: 9. And be it further enacted, that each Attorney General, acting in behalf of the Territory, shall be allowed the following fees, and no more; for every Bill found five dollars; On each Ignoramus, two dollars. —

SEC: 10. And be it further enacted, that all fees taken by Attornies in future in any Suits, in any of the Several Courts of Law and Equity established in this Territory, shall be as follows, to Wit, In any Suit in Equity, the Sum of Twenty dollars — In any Suit in any of the Superior Courts, where the title of Land shall come in Question, the Sum of twelve dollars; In all other Suits Originally Commenced in any of the said Courts, the Sum of Six dollars; In all Suits Originally Commenced in the County Courts, the Sum of four dollars; In every appeal from the Judgment of a Justice of the Peace, to the said County Courts, the Sum of two dollars. —

In all appeals from any other Court to the said Superior Courts the Sum of Six Dollars.

SEC. 11. And be it further enacted, that it shall, and may be lawful for the

Clerk

Fee Bill

An Act to establish the fees of the several officers herein named.

30th January 1802

Originated in the House of Representatives.

Attest. H. Trask Clerk

1809

An Act for the punishment of Certain Crimes therein mentioned.

Sec: 1. Be it enacted by the Legislative Council and House of representatives of the Mississippi Territory in General Assembly Convened, and it is hereby enacted by the Authority of the Same, That if any person or persons, shall commit the Crime of wilfull murder, such person, or persons on being thereof Convicted, shall suffer death.

Murder

Sec: 2. And be it further enacted, That every person liable to be prosecuted for petit Treason, or as accessary thereto, shall in future be indicted, proceeded against and punished, as is directed in Other kinds of wilfull Murder.

Petit Treason

Sec: 3. And be it further enacted, that every person, who shall commit the crime of Rape, and be thereof Convicted, shall suffer death.

Rape

Sec: 4. And be it further enacted, That every person who shall wilfully, and maliciously burn any dwelling House, Cotton House or Store, or Out House, or building adjoining such dwelling House, Cotton House or Store, shall be deemed guilty of Arson, and upon Conviction thereof shall suffer death.

Arson

Sec: 5. And be it further enacted, That every person, who shall commit the crime of Robbery, and be thereof Convicted, shall suffer death.

Robbery

Sec: 6. And be it further enacted, That every person who shall commit the Crime of Burglary, and be thereof Convicted, shall suffer Death.

Burglary

Accessaries before the fact

Sec: 7. And be it further enacted, That if any person, or persons, shall be accessary before the fact, to any wilfull murder, Rape, Arson, Robbery or Burglary, he, she, or they, so Offending, shall upon Conviction thereof suffer death.

Sec: 8. And be it further enacted, That, if any person, or persons shall be accessary after the fact, to any wilfull Murder, Rape, Arson, Robbery or Burglary, he, she, or they so Offending, shall, upon Conviction thereof be fined not exceeding five hundred dollars, or receive thirty nine lashes on the bare back.

Accessaries after the fact

Sec: 9. And be it further enacted, That every person Convicted of Horse Stealing, or for Stealing any Slave, shall suffer death — Yet to have the benefit of Clergy for the first Offence.

Horse Stealing

Grand Larceny

SEC: 10. And be it further enacted, That any person convicted of simple Larceny, to the value of twenty dollars or upwards, or as accessary thereto, shall restore the goods or chattels so stolen, to the rightful owner, or owners thereof, or shall pay to him, her, or them, the value thereof as shall not be restored; and moreover shall receive thirty nine lashes, upon his, or her bare back, and shall stand in the pillory at discretion so as not to exceed two hours in each day, for three days.

Petit Larceny

SEC: 11. And be it further enacted, That if any person or persons, shall feloniously take, steal, and carry away, any goods or chattels under the value of twenty dollars, or shall be accessary thereto before the fact, the same order and course of trial shall be had and observed as for other simple larcenies; and he, she, or they being thereof legally convicted, shall be deemed guilty of petit larceny, and shall restore the goods and chattels so stolen, to the owner, or owners thereof, or pay the value thereof to such owner or owners; and shall have any number of lashes not exceeding thirty nine.

Robbery, Larceny of bonds Bills &c

SEC: 12. And be it further enacted, That robbery, or larceny of obligations or bonds, bills obligatory, or bills of exchange, promissary notes for the payment of money, or notes for the payment of any specific property, lottery tickets, paper bills of credit, cotton receipts, certificates granted by, or under the authority of this Territory, or of the United States, or of any of them; shall be punished in the same manner, both as to the principal and accessary, as robbery or larceny of goods and chattels.

Misprision of Felony

SEC: 13. And be it further enacted, That if any person having knowledge of the actual commission of the crimes of wilful murder, rape, arson, robbery, burglary or larceny, shall conceal, and not as soon as may be, disclose and make known the same to some of the Judges, or other person, or persons in civil authority within this Territory, on conviction thereof, such person or persons shall be adjudged guilty of misprision of felony, and shall pay a fine not exceeding three hundred dollars, and may also at the discretion of the court, receive any number of lashes not exceeding thirty nine.

Receiving stolen goods or harbouring the felons

SEC: 14th. And be it further enacted, That if any person or persons, shall receive or buy any goods or chattels, that shall be feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen, or shall receive harbour or conceal any felons or thieves, knowing them to be so, he, she or they, being of either

Offences legally Convicted, shall restore the goods so received, or pay double the Value thereof, and shall stand in the pillory two hours.

Sec: 15. And be it further enacted, That every person who shall burn any Out House, Barn or Stable, not adjoining some dwelling House or Store, or shall burn any Hovel, crib, Burning outlock, mow, or Stack of Hay, fodder, Corn or grain, or shall be accessory to either of said every Houses Stables &c before the fact, shall upon Conviction thereof, pay the damages that any person may sustain thereby, and shall suffer imprisonment not exceeding Six Months.

Sec: 16. And be it further enacted, That if any persons or persons shall forge or Counterfeit, or cause or procure to be forged or Counterfeited, or shall willingly act or assist in the forging or Counterfeiting any Gold or Silver Coin, which now is, or hereafter may be passing, or in Circulation in this Territory, or shall falsely, utter, pay or Offer or tender in payment, any such forged or Counterfeited Coin, knowing the same to be forged or Counterfeited, every person so Offending, and being thereof Convicted, shall suffer death, yet may avail himself of the benefit of Clergy for the first Offence.

Counterfeiting

Sec: 17. And be it further enacted, That if any person or persons, shall falsely make, alter, forge or Counterfeit, or cause or procure to be falsely made, altered, forged or Counterfeited; or willingly act or assist in the false making, altering, forging or Counterfeiting Letters Patent, gift, grant, Bond, writing Obligatory, bill or Order, or acceptance of such bill or Order, Note of the Bank of the United States, or of the bank of any one of the said States, Cotton Receipt, promissary note, will, Indenture, deed or Contract with intention to defraud any person, or shall utter, put off, or Offer, or Cause to be uttered, put off, or Offered in payment, or for sale any such false forged altered or Counterfeited Bond, bill, Order or Acceptance of such bill or Order, Note of the Bank of the United States, or of the Bank of any one of said States, Cotton Receipt, promissary note, Will, Indenture, deed or Contract with intention to defraud any person, knowing the same to be false, altered, forged, or Counterfeited; and shall be thereof Convicted; every such person shall suffer death.

Forgery

Sec: 18th. And be it further enacted, That if any person or persons, shall wilfully and Corruptly Commit perjury, or shall by any means procure any person to Commit Corrupt and wilfull perjury, on his or their Oath or Affirmation in any Suit, Controversy, matter or Cause, depending in any of the Courts of this Territory, or in any deposition or Affidavit taken, or made pursuant to the Laws of this Territory

Perjury and Subornation of perjury

every person so Offending and being thereof Convicted, shall pay a fine not exceeding three hundred dollars, and stand in the pillory two hours, and shall have thirty nine lashes on the bare back, and be thereafter rendered incapable of giving testimony in any of the Courts of this Territory, untill such time as the Judgment given against such Offender be reversed.

SEC: 19. And be it further enacted, That in every presentment or Indictment to be prosecuted, against any person for wilfull and corrupt perjury, It shall be sufficient to set forth the Substance of the Offence, Charged upon the defendant, and by what Court, or before whom the Oath or Affirmation was taken (averring such Court or person or persons, to have a competent Authority to administer the same) together with a proper averment or averments to falsify the matter or matters wherein the perjury or perjuries, is or are assigned, without setting for the Bill, answer, information, Indictment, declaration or any part of any Record or proceeding either in Law or equity, other than as aforesaid; and without setting forth the Commission, or authority of the Court, or the Commission or authority of the person or persons before whom [illegible] and

In prosecutions for perjury sufficient to set forth the Substance of the charge

SEC: 20. And be it further enacted, that in any presentment or Indictment, for Subornation of Perjury, or for Corrupt bargaining or Contracting with Other to Commit wilfull and corrupt perjury; It shall be sufficient to set forth the Substance of the Offence Charged upon the defendant, without setting forth the bill, answer, information, Indictment or declaration, or any part of the Record or proceeding, either in Law or equity, and without setting forth the Commission or Authority of the Court, or person or persons before whom the perjury was Committed, or was agreed or promised to be committed.

Also in Subornation of perjury

SEC: 21. And be it further enacted, That if any person or persons, shall feloniously steal, take away, alter, falsify or Otherwise avoid any record, writ Process, or Other proceedings, in any of the Courts of this Territory, by means whereof any Judgment shall be reversed, made void, or not take effect, or if any person shall acknowledge, or procure to be acknowledged, in any of the Courts aforesaid, any recognizance, bail or Judgment, in the name, or names of any Other person or persons, not privy or consenting to the same, every such person or persons, On

Stealing and falsifying record by which Judgment is avoided and personating bail

so, in prison or they, being of

on Conviction thereof, shall pay a fine, not exceeding three thousand dollars; & may also at the discretion of the Court receive thirty nine lashes. —

Proviso

Provided, Nevertheless, That this Act shall not extend to the acknowledgment of any Judgment or Judgments, by any Attorney or Attornies, duly authorized for any person or persons, against whom any such Judgment, or Judgments shall be had or given. —

altering falsifying and embezzling records enrolments &c with an intent to defraud

Sec: 22. And be it further enacted, that every person who shall deface, alter falsify or embezzle, any record, enrolment or matter, or instrument recorded, or registry thereof with intent to defraud, shall upon Conviction thereof pay a fine not exceeding One thousand dollars, and be imprisoned a term not more than two Years, and shall be rendered incapable of holding any Office within this Territory. —

Polygamy

Sec: 23. And be it further enacted, that if any person or persons, being married, shall intermarry with any person or persons, the former Husband or Wife being alive, he she, or they so Offending, shall on Conviction thereof pay a fine not exceeding five hundred dollars, or be imprisoned a term not exceeding One Year. —

Proviso

Provided Nevertheless, that this act, or any thing therein contained shall not extend to any person or persons, whose Husband or wife shall absent him or herself, one from the Other, by the space of five Years, the One of them not knowing the Other to be living within that time, nor to any person or persons, who shall be at the time of such Marriage divorced by Competent Authority, or to any person or persons, whose former Marriage by sentence of Competent Authority shall have been declared void, or by Settlement made before legal Authority, or to any person or persons, for or by reason of any former Marriage had or made within the age of Consent. —

Adultery

Sec: 24. And be it further enacted, that every person who shall commit the crime of Adultery, or be accessary thereto before the fact, shall pay a fine not exceeding one hundred dollars. —

Manslaughter

Sec: 25. And be it further enacted, That if any person or persons, shall commit the crime of Manslaughter, and be thereof Convicted, such person, or persons shall be fined in a sum not exceeding five hundred dollars, and may at the discretion of the Court receive thirty nine lashes and be branded on the hand with the letter M. —

Maiming

Sec: 26. And be it further enacted, that if any person or persons, on purpose and of malice aforethought, shall unlawfully Cut or bite off the ear, or ears, or Cut out or disable the tongue, put out an eye, while fighting, or Otherwise; Slit the nose or

lip, cut or bite off the nose or a lip, or cut off or disable any limb, or member of any person, with intention in so doing to maim or disfigure such person in any manner before mentioned; then in every such case, the persons so Offending, the Counsellors aiders and abettors shall, on Conviction thereof, pay a fine not exceeding One thousand dollars, and shall stand in the pillory two hours every day, not exceeding three days, and be disqualified to hold any Office of profit or trust ever after in this Territory.

Sec: 27. And be it further enacted, that every person who shall assaulting another by wilfully shooting at him, or with intent to commit murder, rape, or robbery, shall on Conviction thereof be imprisoned a term not exceeding six months, and shall afterwards give sufficient Security for good behaviour for one year.

Assault by shooting with intent to murder

SEC. 28. And be it further enacted, that if any person shall challenge another, or shall accept a challenge, to fight with sword pistol, rapier, or other dangerous weapon every person, so challenging or accepting such Challenge, shall, upon Conviction thereof be fined five hundred dollars, and may be imprisoned not exceeding six months, and shall be ever after deemed incapable of holding any Office of honor, trust, or profit within this Territory.

And if any person shall willingly, or knowingly carry or deliver to any person a written Challenge, or verbally deliver any message purporting to be a challenge to fight such duel, or shall be present at the fighting such duel as second to either party, or shall command, counsel, advise or procure any person to fight such duel; every person so Offending and being thereof convicted, shall be liable to the same penalties, as are by this act directed in the case last mentioned, of a Challenge to fight, on the accepting such challenge.

Duelling

Carrying a challenge or being a second

Sec: 29 And be it further enacted, that if any person or persons, shall by force set at liberty or rescue any person or persons, who shall be found guilty of any Capital Offence, or rescue any person convicted of any Capital crime going to execution, or during execution; every person so Offending and being thereof Convicted shall suffer death.

Rescue of persons convicted or before Conviction

And if any person or persons shall by force, set at liberty or rescue

rescue any person or persons, who before Conviction shall stand Committed for any Capital Offence; or if any person or persons, shall by force set at liberty or rescue any person Committed for, or Convicted of any Other Offence, every person so Offending, shall on Conviction thereof, be fined not exceeding three hundred dollars, and be imprisoned not exceeding nine months.

Obstructing the execution of process

Sec: 30. And be it further enacted, that if any person or persons shall Knowingly and wilfully Obstruct, resist, or Oppose any Officer of this Territory, in Serving or attempting to Serve, or Execute any Mesne process, or Warrant, or any Rule or Order of any of the Courts of this Territory, or any Other legal or Judicial Writ, or process whatsoever, or shall assault, beat or wound any Officer, or Other person duly Authorised, in serving or Executing any writ, rule, Order, process or warrant aforesaid, every person so Knowingly and wilfully offending in the premises, shall on Conviction thereof be imprisoned not exceeding Six months; and fined not exceeding two hundred dollars.

Libel

Sec: 31 And be it further enacted, that if any person shall be prosecuted by information, or Indictment, for the writing or publishing any libel, it shall be lawful for the defendant upon the trial of the Cause, to give in evidence in his defence the truth of the matter contained in the publication charged as a Libel; and the Jury who shall try the cause, shall have a right to determine the Law & the fact under the direction of the Court as in Other Cases.

Offences not provided for by this Act punished as at common law

Sec: 32 And be it further enacted, that every Other felony, misdemeanor, or Offence, whatsoever not provided for by this Act, shall be punished as heretofore by the Common Law.

In Capital Cases prisoner to have Copy of Indictment and list of Jury two days before his trial

Sec: 33 And be it further enacted, that any person who shall be accused and indicted for any Capital Crime, shall have a Copy of the Indictment and list of the Jury which are to pass on his trial, delivered into him at least two entire days before he, or she, shall be tried for the same — And that every person accused and Indicted, shall be allowed and admitted to make his full defence by Counsel learned in the Law; and the Court before whom

Such person shall be tried, or some Judge thereof, shall immediately upon his request assign to such person, such Counsel not exceeding two, as such person shall desire, to whom such Counsel shall have free access at all seasonable hours; and every such person, or persons, so accused, and Indicted, shall be admitted in his or their defence, to make any proof he or they can produce by lawful witness, or witnesses, and shall have the like process to compell his or their witnesses to appear on his or their trial, as is usually granted to compell witnesses to appear on the prosecution against him or them.

in all causes to be allowed Counsel

to have process to compel his witnesses to attend

SEC 34. And be it further enacted, That no person Indicted of a Capital offence, shall be allowed to Challenge peremptorily above the number of twenty persons of the Jury, unless cause be shown for such Challenges above that number aforesaid: And if any person on his, or her arraignment for any Capital or inferior Offence, shall stand mute, or will not answer to the Indictment, the plea of not guilty shall be entered for him or her on the Record, and the Court shall in either of said Cases proceed to trial of the person so Challenging or standing mute, as if he, or she had pleaded not guilty, and for trial put him or herself, upon the Country, and render Judgment accordingly.

In capital Cases prisoners shall Challenge peremptorily only 20 Jurors

Standing mute

SEC: 35. And be it further enacted, That the benefit of Clergy, shall not be used or allowed upon conviction of any Crime, for which by any Statute of this Territory, the Punishment is, or shall be declared to be death, except as in the Cases herein before excepted.

Benefit of Clergy taken away

SEC: 36. And be it further enacted, that no person, or persons shall be prosecuted, tried, or punished for any Offence, wilful Murder, Arson, Forgery, Counterfeiting and Larceny excepted, unless the Indictment, presentment or information for the same be found or exhibited within one Year next after Offence shall be done or Committed. Nor shall any person be prosecuted for any fine or forfeiture under any penal Statute, unless the prosecution for the same shall be instituted within Six Months from the time of incurring fine, or forfeiture aforesaid. Provided that nothing herein Contained

Limitation

Provide

shall extend to any person or persons - Absconding or fleeing from Justice

manner of inflicting the punishment of death

Sec: 37. And be it further enacted, that the manner of inflicting the punishment of death, shall be by hanging the person Convicted by the neck untill dead.

Estate of person Convicted liable to costs of Conviction, then to restitution to party injured

Sec: 38. And be it further enacted, That the lands, Tenements, goods and Chattels of any person, or persons, Convicted of any Crime or misdemeanor, shall be liable and subject in preference to all Other demands whatever (except debts due to Jointure) in the first place, to the discharge of the Expences incurred by the Territory or County in the prosecution and conviction of such Offender, and in the next place, to what restitution or reparation may be adjudged to the injured party; and if the Estate of the person, or persons, shall be incompetent to said purposes, then in that Case, after deducting the Expences of prosecution and Conviction as aforesaid, the Surplus, if any, shall go towards making restitution or reparation to the party Injured.

Sec: 39. And be it further enacted, that in all prosecutions for Offences, of either a Capital or inferior nature, no Citizen Shall on Conviction be fined in a greater Sum than fifty dollars, unless by the verdict of a Jury of his peers, who shall assess the fine at the time they find the fact, if they think the fine Ought to be more than fifty dollars.

Repealing Clause

Sec: 40. And be it further enacted, That the Act, or Law, entitled "A law respecting Crimes and punishments," declared and published by the Governor and Judges of this Territory the twenty eighth day of February Anno Domini One thousand Seven hundred and Ninety nine, be, and the same is hereby made null and Void to all intents and purposes.

A. Hunter Speaker of the House of Representatives

John Ellis President of the Council

Approved January 30th 1802 — William C. C. Claiborne Governor & Chief Justice of the Territory

An Act for the pun-
ishment of certain crimes
therein mentioned.

January 30th 1802.

1802

Originated in the House
of Representatives.
Attest. J. Trask Clerk

An Act to ascertain what property in this Territory shall be deemed Taxable property, and the mode of collecting, accounting for, and paying public Taxes.

§ 1 Be it enacted by the Legislative Council and House of Representatives of the Mississippi Territory in General Assembly convened, and it is hereby enacted by the authority of the same, That all Lands to which the Indian title has been extinguished; and held by Deeds, grants, right of Dower, or Curtesy, all town lots, all practicing attorneys, all Doctors of Physic, all slaves male & female under the age of fifty years, and all Billiard Tables within this Territory, shall be subject to the payment of public Taxes; and the public tax on such property and persons shall be proportioned in the manner directed by this Act

§ 2 And be it further enacted that the public tax for the year eighteen hundred and two, and in each succeeding year shall be, on each hundred acres of land 50 cents; on each unimproved town lot two dollars; attorneys at Law annually, five dollars each; Doctors of Physic, five dollars each; on each negro under fifty cents; on all Billiard tables, two hundred town lots five dollars.

§ 3 And be it further enacted, that all taxable property shall be returned in the County where such property shall be, on the first day of July Eighteen hundred and two, and in each succeeding year on the first day of January; and that at the first court for each County to be held after the first day of January next, and in each succeeding year, the said courts shall appoint a Justice of the peace for each Captains district in the different counties to receive lists of taxable property for the present year, and the Justices so appointed, shall without delay, fix the time and place in each District for receiving lists of taxable property; and the said Justices shall advertise the same at six of the most public places in their respective districts, at least twenty days previous to the time appointed to receive such lists And the Clerks of each court shall furnish each Justice within twenty days after their appointment with a fair, alphabetical copy at large of the Taxable property within their district the preceding year.

§ 4 And be it further enacted, That the inhabitants of the respective districts ~~within~~ each county, shall attend at the time & place so to be appointed, and shall return on oath in writing to the Justices appointed to receive the

the same, all his, her, or their taxable property in such county; the quantity of lands, distinguishing the particular tracts, the number of slaves male & female under the age of fifty years which to him, her, or them belong, and the oath to be administered by the Justice receiving such list shall be as follows: you do swear, or affirm (as the case may be) that the list by you delivered contains a just and true account of all the property for which by law you are subject to pay taxes in this County, to the best of your knowledge and belief.

SS. 5 And be it further enacted that it shall be the duty of the Sheriff of each County, by such lawful ways & means as shall be in his power, by having recourse to the Register's and Clerk's offices, or otherwise, to discover such taxable property as shall ~~not~~ not have ~~not~~ been returned within the time limited by law, and to report in writing under his hand to the court of the county, which report the Clerk shall enter in his list of taxable property in the same manner as if it had been taken by a Justice of the peace in manner and form as prescribed by Law

SS. 6. And be it further enacted, that every person residing out of this Territory; and holding land or other taxable property within the same, in manner ascertained by this act, shall, by himself, his agent or attorney, return an Inventory thereof in the county in which the same may be, in form as ~~is~~ prescribed by this act for citizens of this Territory.

[illegible] That the Justices [illegible] shall be appointed [illegible] taxable property, shall make returns of their lists respectively to their respective county courts, next after such lists shall be received, and the Justices in their returns shall exclusive of the original lists by them received distinguish the persons names, the several tracts of land, the quantity and situation of each tract, the number of town lots, the number of slaves & Billiard tables, in the following manner: viz;

Persons Names	Quantity in each tract of Land	Situation of more where each tract lies.	No of Town lots	Town lots improved	Lots unimproved	Bor lots of [illegible]	No. of Black Polls	No: of Billiard Tables	Amount of each person's taxable property

SS. 8. And be it further enacted that if any person appointed to receive lists of taxable property, as by this act directed, shall fail or neglect ~~or fail~~ to perform the duty

duty of his appointment, the person so failing or neglecting shall be deemed guilty of a Misdemeanor in office.

S. 9. And be it further enacted, That the Several Justices appointed to receive the lists of Taxable property shall make return of their own lists to the County courts; and if any Justice appointed to receive lists of Taxable property shall die, refuse to act, or remove out of the county, before the duty of his appointment shall be performed, any three Justices of the County may, and they are hereby authorised and directed to appoint another to act in the place of such person so dead, refusing to act or removing; and the person so appointed shall have the same power and authority in all respects as if he had been originally appointed, and subject to the same pains & penalties.

S. 10. And be it further enacted, That the Clerk of each County court shall record at large in alphabetical order the annual returns made by the Justices in his county, and the court shall make a reasonable allowance for such services, to be paid out of the County Tax.

S. 11. And be it further enacted, That all taxes by [illegible] to be imposed, shall be collected, paid an[illegible] manner and form following; the Clerk of each Co[illegible] Territory, shall within thirty five days after the Court to which the list of Taxable property shall be returned in every year, furnish the Sheriff of the County, whose duty it shall be to collect public taxes, with a list of the Taxable property within the county; and the Sheriff shall appoint, the day & place in each district of the said County, when and where he will attend for the purpose of receiving public Taxes: which day shall be as soon as may be after he shall have received the list of Taxable property; provided always that the Sheriff shall give twenty days previous notice by advertising it at six of the most public places in said District, and if any person or persons so notified shall fail to attend or otherwise pay their taxes on or before the day appointed, it shall be the duty of the Sheriff to levy the same by distress and sale of the goods & chattels of every person so neglecting; provided, no distress be made within fifteen days after the day so notified for receiving taxes; and for every distress and sale so made it shall be ~~the duty of the Sheriff~~ lawful for such Sheriff as fees of office to levy therewith the sum of fifty cents; provided also; that the said Sheriff shall give at least ten days previous notice of such sale by advertising the same as in other cases.

§. 12. And be it further enacted, That in case there shall not be any goods or chattles on which the Sheriff can distress for public taxes he shall report the same to the court of the County, and the Court shall forthwith direct the Clerk to make out a certificate of the lands and tenements liable for the payment of the said taxes; together with the amount of taxes and charges due thereon; and shall cause the same to be published at least twice in one of the public papers in this Territory; setting forth that the same will be sold for taxes; and the printer shall be allowed the sum of one dollar for each publication, to be levied out of said land as the tax and other charges; and if no person shall pay the public tax thereof, agreeable to this act, within thirty days after the last publication as aforesaid, the Court shall enter up Judgment for the amount of taxes due, and all accruing costs and charges, for which execution at the direction of the court shall issue as in other cases; and the Sheriff shall by virtue thereof expose to sale at the court house of his county the said lands tenements or so much thereof as shall be sufficient to pay & satisfy the said Judgment, and all costs and charges accruing thereon, and the said Sheriff is hereby authorized and directed to make out and execute a deed or deeds of conveyance for the land so sold unto ing the highest bidder, on the receipt of the money or deed shall be deemed good and sufficient in law, against the claim or persons claiming by or under him, any law usage or custom to the contrary notwithstanding. And the several Clerks and Sheriffs shall respectively receive for their services the same fees as are allowed by law for similar services in other cases, exclusive of the three percent which the said Sheriff is intitled to have for collecting and paying ~~for~~ the said taxes

§. 13. And be it further enacted, that the Sheriff of each County, before entering on the collection of public taxes shall give bond with two or more securities which the court shall approve of, for double the sum by him or them to be collected, payable to the Governor for the time being, or his Successors in office for the use of the Territory, conditioned for the collection of, and payment to the Treasurer of the Territory, of all taxes by him collected, or which ought to have been collected, on or before the first day of December in each and every year in which he shall collect the tax; and shall also in open court take and subscribe the following oath — "I A.B. do Solemnly Swear, (or affirm, as the case may be) that I will faithfully collect all taxes for my County, and make a true report of such persons as may fail to return lists of taxable property, according to law, and the best of my knowledge skill, & ability."

§. 14.

County wherein the delinquent Sheriff resides, as by Sheriff and Securities had been prosecuted to Judgment by the usual process of the said Court; any law, usage, or custom to the contrary notwithstanding. Provided that the Sheriff shall have credit for all delinquencies and deficiences of payment to him in his collections as shall be certified by the court of the county in which he is Sheriff.

SS. 19. And be it further enacted, that if any person Sheriff or other person holding public monies shall presume to demand or receive any fee, gift gratuity or discount for paying or taking up any warrants or drafts chargeable upon taxes, as well of the Territory as of the County, every such offender upon due conviction in any court of record shall forfeit and pay a sum equal to double the amount of the draft so taken up, to be recovered by action of debt before any proper Jurisdiction having cognizance thereof in the name of the person aggrieved, one half to the Territory or county, (as the case may be) and the other half to the person aggrieved; and in case the aggrieved person will not prosecute as aforesaid, within six months, then in the name of him who will sue for the same, one half to his own use, & the other half as aforesaid.

[illegible] further enacted, That if it shall appear that the [illegible] failed at any time [illegible]

Treasurer [illegible] receive the same, or hath neglected in any instance to call to account as by this act directed, any delinquents therein described, by which the public revenue of this Territory may suffer loss; then in such case the said Treasurer shall be held & deemed accountable for the sum due by such delinquents to all intents & purposes as if the same had actually been paid into his office.

SS. 21. And be it further enacted, That all acts or laws for raising money either as a territorial or County tax; and all acts or laws, or parts thereof, coming within the per[illegible] meaning of this act, are hereby made & declared null & void to all intents [illegible]

SS. 22. And be it further enacted, That [illegible] shall be in force from and after passing the same.

Henry Hunter, Speaker of the House of Representatives
John Ellis, President of the Council

Approved, January 30th 1802
William C. C. Claiborne, Governor of the Mississippi Territory

The foregoing law is a true copy of the original Roll deposited in my office.
April 26 1802.
John Steele Secretary

SS. 14. And be it further enacted, That the Sheriff appointed by virtue of this act to collect public taxes, shall each and every of them pay the public taxes collected in his county into the hands of the public Treasurer; and shall receive his as commissions for collecting and paying the same the sum of three per cent for each hundred dollars, and so on in proportion for a greater or less sum.

SS. 15. And be it further enacted, that if any Sheriff or collector shall presume under color or pretence of this act, or of any act directing the collection of county taxes, to collect more money in name of taxes than is directed by law, such offending Sheriff or collector on due proof thereof, shall be guilty of a misdemeanor in office.

SS. 16. And be it further enacted that the Clerk of each County court of this Territory, shall enter of record the bond given by said Sheriff for the collection of public taxes, and shall without delay transmit the same, together with a copy of the tax list of his county, to the Treasurer of this Territory, and also a like copy to the next meeting of the General assembly; and in case any of the aforementioned Clerks or Sheriffs shall fail to comply with their duties as required by this act, [illegible]

SS. 17. [illegible] this Territory [illegible] for collection of public taxes, so that a successor in office could not be appointed before the time for collecting the taxes, in such cases it may & shall be lawful for their Securities to receive the same; in which business they are hereby declared to have all the powers, authorities, privileges, & emoluments in and for the receipt and collection of all taxes which the Sheriff deceased possessed and enjoyed, and shall be liable for deficiencies.

SS. 18. And be it further enacted that if the Sheriff or Sheriffs of any County in this Territory shall neglect or refuse to settle his or their accounts on or within the time limited by this act, or in manner hereby directed, then it shall and may be lawful for the Treasurer of this Territory, to enter up Judgment on motion in the name of the Governor on the Bond of the said Sheriff for the amount of the Taxes from such Sheriff or Sheriffs and their Securities in the Superior court of which is hereby declared to be good and valid in law, and execution may issue thereon, directed to the Succeeding Sheriff or to the Coroner of the County